

INTERNATIONAL COURT OF JUSTICE

**APPLICATION
INSTITUTING PROCEEDINGS**

filed in the Registry of the Court
on 16 January 2017

**APPLICATION OF THE INTERNATIONAL CONVENTION
FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM
AND OF THE INTERNATIONAL CONVENTION
ON THE ELIMINATION OF ALL FORMS
OF RACIAL DISCRIMINATION**

(UKRAINE v. RUSSIAN FEDERATION)

COUR INTERNATIONALE DE JUSTICE

**REQUÊTE
INTRODUCTIVE D'INSTANCE**

enregistrée au Greffe de la Cour
le 16 janvier 2017

**APPLICATION DE LA CONVENTION INTERNATIONALE
POUR LA RÉPRESSION DU FINANCEMENT DU TERRORISME
ET DE LA CONVENTION INTERNATIONALE
SUR L'ÉLIMINATION DE TOUTES LES FORMES
DE DISCRIMINATION RACIALE**

(UKRAINE c. FÉDÉRATION DE RUSSIE)

2017
General List
No. 166

I. LETTER FROM THE MINISTER FOR FOREIGN AFFAIRS
OF UKRAINE TO THE REGISTRAR
OF THE INTERNATIONAL COURT OF JUSTICE

16 January 2017.

I have the honour to transmit herewith the Application of Ukraine instituting proceedings against the Russian Federation. In accordance with Article 38 (3) of the Rules of the Court, I hereby authenticate the signature appearing on the Application of Ms Olena Zerkal, Deputy Foreign Minister of Ukraine, who has been duly appointed as Agent of Ukraine in respect of this case.

(Signed) Pavlo KLIMKIN,

II. APPLICATION INSTITUTING PROCEEDINGS

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I. INTRODUCTION

1. On 24 August 1991, Ukraine proclaimed its independence from the Soviet Union, and the modern state of Ukraine was re-born. The Russian Federation subsequently made solemn commitments to respect Ukraine's sovereignty and independence within its settled borders. Over the last decade, however, a new generation of Russian leaders has sought to turn the clock back, characterizing the break-up of the Soviet Union as the "greatest geopolitical catastrophe of the twentieth century" and adopting a Soviet-style policy aimed at restoring Russian dominance over its neighbours. Since then, Ukraine has become the target of an escalating campaign of Russian interference and aggression. Following the Orange Revolution of 2004, in which the Ukrainian people peacefully and successfully demanded the right to choose their leaders in free and fair elections, Ukraine has been subjected to increasing degrees of Russian pressure and intimidation. Betraying its earlier promise to respect the sovereign equality and territorial integrity of Ukraine, the Russian Federation has sought to restore its dominance through political, economic, and, ultimately, military power.

2. Ukraine's longstanding foreign policy objective of forging closer ties to the European Union has been a particular source of Russian ire during this period. With Ukraine prepared to sign a landmark Association Agreement with the European Union in 2013, the Russian Federation lashed out, threatening to destroy Ukraine's economy by imposing punitive unilateral trade restrictions, attempting to freeze its people by withholding gas supplies during the harsh winter season, and calling its territorial integrity into question. When Ukrainian President Viktor Yanukovich yielded to this extreme Russian pressure, ordinary citizens took to the streets en masse to remind their leaders that the Ukrainian people have chosen a European future and that the Government must answer to the people, not the dictates of foreign powers. In response, President Yanukovich engaged in brutal tactics to suppress the protests, resulting in the murder of more than 100 unarmed demonstrators in and around the Maidan Nezalezhnosti, Kyiv's "Independence Square". The Russian Federation sought to prop up Yanukovich through the provision of financial and other support, including the supply of assault equipment that was used against the protesters. But the people's resolve strengthened, Yanukovich's support evaporated, and he abandoned his post and fled to Russian territory. Ukraine's "Revolution of Dignity" prevailed.

3. The Russian Federation refused to accept the Ukrainian people's renewed assertion of their independence. Instead, it has escalated its interference in Ukrainian affairs to dangerous new levels, intervening militarily in Ukraine, financing acts of terrorism, and violating the human rights of millions of Ukraine's citizens, including, for all too many, their right to life.

4. In eastern Ukraine, the Russian Federation has instigated and sustained an armed insurrection against the authority of the Ukrainian State, including by systematically supplying illegal armed groups with heavy weaponry, money, personnel, training, and other support. That assistance has been used not only to support combat against the Ukrainian authorities, but to conduct devastating terrorist attacks, including the shooting down of Malaysia Airlines Flight MH17, with 298 innocent civilians on board. A densely-populated residential area in the port city of Mariupol was targeted for bombardment. A passenger bus carrying civilians was shelled near Volnovakha. A peaceful and patriotic rally in Kharkiv was

bombed. Throughout Ukraine, civilians have suffered as the Russian Federation and its proxies have attempted to extract concessions. The Russian Federation's sponsorship of this brutal campaign of terrorism in Ukraine deliberately flouts fundamental principles of international law, including those enshrined in the International Convention for the Suppression of the Financing of Terrorism ("Terrorism Financing Convention")¹.

5. In the Autonomous Republic of Crimea and City of Sevastopol, the Russian Federation brazenly defied the United Nations Charter, seizing a part of Ukraine's sovereign territory by military force. In an attempt to legitimize its act of aggression, the Russian Federation engineered an illegal "referendum", which it rushed to implement amid a climate of violence and intimidation against non-Russian ethnic groups. With the groundwork laid by the illegal referendum, the Russian Federation proceeded to implement a policy of harassment and suppression of communities it deemed to be opponents of the régime. The result has been a campaign to erase the distinct cultures of ethnic Ukrainian and Tatar People in Crimea, carried out through a broad-based pattern of discriminatory acts. The leaders and institutions of these communities have been persecuted and many of their leaders have been forced into exile outside Crimea. These communities have faced abductions, murders, and arbitrary searches and detentions. Their languages have come under assault. Those who remained in Crimea have had automatic Russian citizenship forced upon them. This deliberate campaign of cultural erasure, beginning with the invasion and referendum and continuing to this day, violates the International Convention on the Elimination of All Forms of Racial Discrimination ("CERD")².

6. The Russian Federation's unlawful aggression against Ukraine has resulted in thousands of civilian deaths and the displacement of approximately 2 million people. As set forth in this Application, it has also resulted in a series of flagrant violations of the Russian Federation's treaty obligations, where innocent civilians have been the primary victims. These attacks on the people of Ukraine, and indeed the world, demand accountability under international law. When Russia ratified the Terrorism Financing Convention and the CERD, it agreed to submit disputes under both of these treaties to this Court's jurisdiction. Ukraine brings this case to establish the Russian Federation's international responsibility under these Conventions, and to seek redress for its people who have suffered the consequences of the Russian Federation's illegal behaviour.

The Terrorism Financing Convention

7. When the Russian Federation acceded to the Terrorism Financing Convention, it made a solemn commitment to co-operate in efforts to prevent the financing of terrorism. Indeed, the Russian Federation has repeatedly proclaimed itself to be a vocal opponent of terrorism in Chechnya, Syria, and elsewhere. But in Ukraine, the Russian Federation is not just failing to co-operate with Ukrainian

¹ International Convention for the Suppression of the Financing of Terrorism, 2798 UNTS 197 (entered into force 10 April 2002).

² International Convention on the Elimination of All Forms of Racial Discrimination, 660 UNTS 212 (entered into force 4 January 1969).

authorities in preventing the financing of terrorism — it is mocking the Convention’s goals by actively promoting and sponsoring terrorism.

8. The illegal armed groups in eastern Ukraine have engaged in a consistent pattern of attacking civilians. The Russian Federation knew that its proxies were committing such acts of terrorism, yet decided to supply them with dangerous weapons and other support. The Russian Government, its public officials, and its citizens have repeatedly transferred materials, money, personnel, and other support to these groups. Despite repeated protests by Ukraine, the Russian Federation has not taken any steps to halt or investigate this terrorism financing. The results have been both predictable and catastrophic:

9. *Shoot-down of Malaysia Airlines flight MH17.* In the most notorious of these attacks, Russian proxies shot down Malaysia Airlines Flight MH17 in flight over Ukrainian territory on 17 July 2014. This was an offense against humanity, murdering 298 innocent civilians of many nationalities, including infants. The perpetrators used a sophisticated anti-aircraft system that was supplied by the Russian Federation. International investigators have systematically traced the weapon’s route from Russian territory, to its launch site, and then back to Russian territory. The United Nations Security Council “condemn[ed] in the strongest terms the downing of Malaysia Airlines Flight MH17”, and “demand[ed] that those responsible for this incident be held to account”³. Yet the Russian Federation made no effort to bring the perpetrators to justice or to explain why weapons from its territory were used for such a terrorist act. The Russian Federation’s sponsorship of this act of terrorism — and its failure to halt or investigate the financing that contributed to this attack — violates its obligations under the Terrorism Financing Convention.

10. *Shellings of civilians in Volnovakha, Mariupol, and Kramatorsk.* Russian proxies have carried out a series of devastating rocket attacks on civilians. For example, they launched a volley of rockets at a queue of civilian vehicles on a well-travelled highway near Volnovakha, blowing up a passenger bus and killing 12 civilians. Russian proxies assaulted a densely-populated residential area in the city of Mariupol, murdering 30 in a rocket barrage; top United Nations officials described the attack as a knowing and targeted attack on civilians. In Kramatorsk, Russian proxies launched an indiscriminate attack on a residential area, killing seven civilians. The Russian Federation supplied the weapons used to perpetrate these and other attacks, knowing that their proxies could use them to commit acts of terrorism. The Russian Federation’s sponsorship of these acts of terrorism — and its failure to halt or investigate the financing that contributed to these attacks — violates its obligations under the Terrorism Financing Convention.

11. *Bombings of civilians in Ukrainian cities.* Russian-backed groups have also perpetrated a wave of bombings intended to instil fear in peaceful, civilian areas,

³ United Nations Security Council resolution 2166, UN doc. S/RES/2166 (21 July 2014).

far from the areas of eastern Ukraine immediately affected by Russian aggression. In Kharkiv, Ukraine's second-largest city, a string of bomb attacks culminated in a deadly explosion at a peaceful patriotic march marking the anniversary of the Revolution of Dignity. The Russian Federation supplied the explosive materials and provided critical training to the terrorists responsible for these plots. The Russian Federation's sponsorship of these acts of terrorism — and its failure to halt or investigate the financing that contributed to these attacks — violates its obligations under the Terrorism Financing Convention.

12. *Failure to co-operate with Ukraine.* Ukraine has made repeated requests to the Russian Federation, under the framework of the Terrorism Financing Convention, to halt all forms of support for terrorism, including the supply of weapons, money, and other materials across its border; to stop the fundraising efforts for Russian-backed illegal armed groups routed through Russian banks; and to help bring public and private individuals to justice for financing terrorism. The Russian Federation's failure to co-operate with Ukraine violates its obligations under the Terrorism Financing Convention.

The CERD

13. The Russian Federation has employed a different set of tactics in Crimea, but has shown the same consistent, fundamental contempt for the human rights of the Ukrainian people. Russian troops consolidated their physical control over Crimea in February and March of 2014. Under the pretext of a sham referendum in March 2014, which the United Nations General Assembly determined has “no validity”⁴, the Russian Federation then purported to annex the territory and installed Crimean authorities under Russian control. These Russian occupation authorities have subjected the Ukrainian citizens under their control to a régime of mass intimidation and human rights abuses. Particular targets of the Russian authorities in occupied Crimea have been the non-Russian communities of the Crimean peninsula, in particular the Crimean Tatar and ethnic Ukrainian communities.

14. As collective punishment against these communities for their refusal to accept the illegal occupation, the Russian Federation has mounted a broad-based campaign of cultural erasure through discrimination. The Russian Federation's suppression of the Tatar community is epitomized by its decision to outlaw the *Mejlis* of the Crimean Tatar People, the community's central political and cultural institution. The Russian authorities have also exiled, imprisoned, and otherwise persecuted Tatar leaders; subjected ordinary Crimean Tatars to disappearances, murder, searches, and intimidation; blocked cultural gatherings; and silenced independent media voices. Similarly, ethnic Ukrainians in Crimea are targeted for mistreatment, including attacks on their media institutions and dramatic decreases in educational opportunities. The Russian goal is ethnic dominance achieved through cultural erasure.

15. As the United Nations General Assembly has recently recognized and con-

⁴ United Nations General Assembly resolution 68/262, UN doc. A/RES/68/262, “Territorial Integrity of Ukraine” (27 March 2014).

demned, the Russian occupation régime is perpetrating “abuses, measures and practices of discrimination” against the Crimean Tatar and ethnic Ukrainian communities⁵. The Russian Federation’s targeting of the Crimean Tatar community in particular has opened old historic wounds, reminding the long-persecuted minority of its brutal repression and exile under Joseph Stalin. This campaign of cultural erasure through discrimination against non-Russian ethnic communities in Crimea violates the Russian Federation’s obligations under the CERD to combat racial discrimination.

* * *

16. The many innocent victims of the Russian Federation’s violations of international law deserve accountability. Ukraine respectfully asks this Court to hold the Russian Federation accountable for its unlawful actions under the Terrorism Financing Convention and the CERD, and to redress the harm caused to Ukraine and its people by Russia’s illegal violations of their rights.

II. JURISDICTION OF THE COURT

17. The Court has jurisdiction over “all matters specially provided for . . . in treaties and conventions in force”⁶. This case concerns disputes relating to the interpretation and application of two conventions: the Terrorism Financing Convention and the CERD. Ukraine and the Russian Federation are parties to both treaties, and have consented to the jurisdiction of the Court to resolve such disputes. Neither Party maintains a reservation to either Convention’s compromissory clause.

A. International Convention for the Suppression of the Financing of Terrorism

18. Article 24 (1) of the Terrorism Financing Convention provides:

“Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.”

19. A dispute has plainly arisen concerning the interpretation and application

⁵ United Nations General Assembly resolution 71/205, UN doc. A/RES/71/205, “Situation of Human Rights in the Autonomous Republic of Crimea and the city of Sevastopol” (Ukraine) (19 December 2016).

⁶ Statute of the Court, Art. 36 (1).

of the Terrorism Financing Convention. For more than two years, Ukraine has protested the Russian Federation's multiple violations of the Convention. Ukraine has made extensive efforts to negotiate a resolution to the dispute, including the exchange of more than 40 diplomatic notes and participation in four rounds of bilateral negotiation sessions. However, the Russian Federation largely failed to respond to Ukraine's correspondence, declined to engage on the substance of the dispute, and consistently failed to negotiate in a constructive manner. Instead, throughout this process, the Russian Federation has insisted that Ukraine's detailed claims did not raise issues under the Terrorism Financing Convention at all. Yet at the same time as the Russian Federation was refusing to engage in a meaningful discussion of its terrorism financing practices, those practices have continued. It therefore became apparent that the dispute could not be settled within a reasonable time, and that further negotiations would be futile. Consequently, on 21 April 2016, Ukraine delivered to the Russian Federation a request to submit the dispute to arbitration, pursuant to Article 24 (1) of the Terrorism Financing Convention.

20. For more than two months the Russian Federation failed to acknowledge Ukraine's offer of arbitration. Eventually the Russian Federation agreed to discuss the arbitration⁷. However, the Russian Federation ignored repeated requests to confirm that it would agree to actually participate in an arbitration — an important commitment in light of the recent Russian practice of refusing to participate in international arbitrations⁸. Only in October 2016, nearly six months after Ukraine had proposed arbitration, did the Russian Federation finally state clearly its intent to participate in an arbitration if the Parties reached agreement on its organization.

21. Even though the Russian Federation waited until October 2016 to express its intent to participate in an arbitration, in August 2016 Ukraine informed the Russian Federation of its views on how an arbitration should be organized. The Russian Federation again delayed in responding, but eventually presented a partial counter-proposal in October 2016. Notwithstanding that the Russian proposal contained significant gaps and failed to address critical aspects of the arbitration's organization, Ukraine continued to meet with the Russian Federation and engaged in diplomatic correspondence in an attempt to reach agreement on the organization of the arbitration. However, no agreement could be reached. Because more than six months have passed since Ukraine's request for arbitration of April 2016, without the Parties reaching agreement on the organization of the arbitration, the Convention envisions that either Party may now refer the dispute to this Court.

⁷ At the Parties' first meeting on the organization of the arbitration, the Russian Federation requested to also discuss the substance of the dispute. Reiterating its view that further substantive discussions were futile, Ukraine agreed to discuss any topic the Russian Federation wished, without prejudice to Ukraine's April 2016 request to submit the dispute to arbitration.

⁸ For example, the Russian Federation refused to participate in an arbitration instituted by the Netherlands under the United Nations Convention on the Law of the Sea, and has refused to participate in several arbitration proceedings initiated by Ukrainian investors pursuant to the Agreement between the Government of the Russian Federation and the Cabinet of Ministers of Ukraine on the Encouragement and Mutual Protection of Investments dated 27 November 1998.

*B. International Convention on the Elimination of All Forms
of Racial Discrimination*

22. Article 22 of the CERD provides:

“Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.”

23. A dispute has plainly arisen concerning the interpretation and application of the CERD. For more than two years, Ukraine has protested the Russian Federation’s multiple violations of the CERD. Ukraine has made extensive efforts to negotiate a resolution to the dispute, including the exchange of more than 20 diplomatic notes and participation in three rounds of bilateral negotiation sessions. However, the Russian Federation largely failed to respond to Ukraine’s correspondence, declined to engage on the substance of the dispute, and consistently failed to negotiate in a constructive manner. It failed to engage in detailed discussions of the claims presented by Ukraine, and avoided substantive discussions of the relevant issues. Yet at the same time as it was refusing to engage in a meaningful discussion of issues of discrimination in Crimea, the Russian Federation was continuing and intensifying its pattern of cultural erasure through discrimination. It therefore became apparent that further negotiations would be futile, and prejudicial to the people living under a discriminatory occupation régime. Accordingly, the Convention envisions that either party may now refer the dispute to this Court.

III. FACTS

24. The Russian Federation’s refusal to respect Ukraine’s sovereignty and independence led to the Revolution of Dignity of the Ukrainian people. In response, the Russian Federation has sought to assert dominance over Ukraine, including by attacking the fundamental human rights of Ukraine’s people.

*A. Ukraine’s Turn toward Europe, the Revolution of Dignity,
and the Russian Federation’s Unlawful Intervention*

25. On 24 August 1991, as the Soviet Union was in the process of disintegrating, Ukraine declared its independence. The Russian Federation, which also emerged from the collapse of the Soviet Union, made solemn commitments to respect Ukraine’s sovereign equality and territorial integrity. For example, in 1994, the Russian Federation, the United States, the United Kingdom, and Ukraine all signed the Budapest Memorandum⁹. Ukraine agreed to disarm and transfer its Soviet-era nuclear weapons to the Russian Federation, and the Russian Federation promised to respect Ukraine’s sovereignty and territorial integrity, never to threaten or use force against Ukraine, and never to coerce Ukraine with economic pressure.

⁹ Memorandum on Security Assurances in Connection with Ukraine’s Accession to the Treaty on the Non-Proliferation of Nuclear Weapons, UN doc. A/49/765 Annex I (19 December 1994).

26. But the Russian Federation has since abandoned those commitments. In August 1999, Vladimir Putin stood before the Russian Duma to be elevated to the post of Prime Minister, and proclaimed that the Russian Federation “has always had and still has legitimate zones of interest”¹⁰. Since then, the Russian Federation under the leadership of Prime Minister, and then President, Putin has sought to reassert its dominance over the former Soviet republics. True Ukrainian independence was not consistent with this worldview.

27. In 2004, the Russian Federation openly intervened in Ukraine’s presidential election, backing then-Prime Minister Viktor Yanukovich. Yanukovich rigged the election, and the people responded with two months of mass protests in the winter of 2004-2005 demanding a free and fair election. This movement became known as the Orange Revolution and culminated in the election of Viktor Yushchenko as President, who campaigned on a platform advocating a modern future for Ukraine oriented toward the European Union and the West.

28. After the Orange Revolution and in response to Ukraine’s pursuit of improved relations with the European Union, the Russian Federation escalated its attempts to reimpose Russian hegemony over Ukraine. In 2005, President Putin famously described the break-up of the Soviet Union as the “greatest geopolitical catastrophe of the twentieth century”¹¹. To counteract Ukraine’s pursuit of its own interests in its domestic and foreign affairs, the Russian Federation implemented a combination of harsh economic, political, and informational attacks on Ukraine. For example, in the freezing winters of January 2006 and 2009, the Russian Federation cut off all gas supplies passing through Ukrainian territory. The Russian Federation’s aggressive use of energy as a geopolitical weapon affected not just Ukraine but a number of European countries depending on gas supplies passing through Ukraine during harsh winters.

29. In the 2010 presidential election, the pro-Russian candidate Viktor Yanukovich won. Ukraine nonetheless continued to pursue a closer relationship with the European Union, and in 2012 the negotiators initialled the text of the Association Agreement. On 25 February 2013, President Yanukovich reaffirmed Ukraine’s commitment to concluding the agreement.

30. The Russian Federation responded by applying tremendous pressure on Ukraine. The Russian Federation launched a trade war against Ukraine, briefly implementing a *de facto* trade ban with the threat that it could be reimposed if Ukraine went forward with its plans for European integration. The Russian Federation further threatened to suspend gas supplies, another economic weapon it had wielded against Ukraine with great effect in the past. Russian officials further threatened consequences to Ukraine’s security, including its territorial integrity.

31. In November 2013, Ukraine and the European Union were close to signing the historic Association Agreement, with plans to enact important electoral, judicial, and constitutional reforms in Ukraine to precede signature of the Agreement at a summit in Lithuania on 28-29 November 2013. But at the last moment, President Yanukovich succumbed to the intense Russian pressure and abruptly

¹⁰ “Vladimir Putin, Address to the Russian Federation State Duma (16 August 1999), excerpted from *BBC News Magazine*, “Vladimir Putin: The Rebuilding of ‘Soviet’ Russia” (28 March 2014).

¹¹ *BBC News*, “Putin Deplores Collapse of USSR” (25 April 2005).

reversed course, stating on 21 November that Ukraine would not sign the Association Agreement. The European Union strongly condemned this Russian interference with Ukraine's relations with Europe.

32. This abrupt policy shift sparked massive street protests across Ukraine, events that became known as the Revolution of Dignity. The people of Ukraine rejected the Russian Federation's interference and protested against the leaders that had ignored the will of the people and bowed to Russian demands. Peaceful protesters gathered on the Maidan Nezalezhnosti ("Independence Square"), Kyiv's central square, growing in number to the tens of thousands. On 30 November 2013, President Yanukovich called in the Berkut, a special police force, to attack the protesters, severely injuring dozens.

33. Over the following months, the Maidan protests grew to hundreds of thousands of Ukrainians. At the same time, the Yanukovich régime remained in close contact with President Putin on the response to the crisis, and ultimately resorted to lethal force. Between December 2013 and February 2014, security forces under President Yanukovich's direction and control murdered more than 100 unarmed civilians. In the face of this violence, support for the Yanukovich régime collapsed, both internationally and within Ukraine's parliament¹².

34. On 21 February 2014, Viktor Yanukovich abandoned his office and fled from Ukraine to the Russian Federation. As the country began to chart its new path, the Ukrainian Parliament appointed a new Government and set early presidential elections for 25 May 2014.

35. The Russian Federation recognized that Ukraine's Revolution of Dignity meant a loss of control over a country that it has long considered part of its "zones of interest", and acted to reassert Russian dominance over its sovereign neighbour. To do so, the Russian Federation has been willing to flagrantly breach international law by violating Ukrainian sovereignty and attacking the fundamental human rights of Ukraine's people. Thus, beginning on 20 February 2014, the Russian Federation launched an invasion of the Crimean peninsula — notwithstanding the Russian Federation's consistent prior recognition of Ukraine's borders, including Ukraine's sovereignty over Crimea.

36. By 27 February 2014, armed groups of masked men donning unmarked green military uniforms seized the buildings of the Crimean Parliament and Council of Ministers, and surrounded, blockaded, or established control over other government buildings, military bases, airports, and media outlets. Despite denials of involvement at the time, Russian President Putin later admitted that the theft of Crimea was planned in advance and carried out by the Russian Government, using Russian soldiers¹³. The Russian Federation formalized its illegal assertion of authority over Crimea by orchestrating a purported referendum, which was unconstitutional under Ukrainian law and has been condemned by the United Nations¹⁴. Despite continued widespread condemnation from the international community, the Russian Federation continues to this day to illegally occupy and

¹² See, e.g., United Nations: Ukraine, *Statements by Foreign Missions and Representations: 21 November-31 December 2013*.

¹³ See e.g., *BBC News*, "Putin Reveals Secrets of Russia's Crimea Takeover Plot" (9 March 2015).

¹⁴ United Nations General Assembly resolution 68/262, UN doc. A/RES/68/262, "Territorial Integrity of Ukraine" (27 March 2014).

administer Crimea. With effective control over Crimea established, the Russian Federation has imposed a policy of Russian dominance, seeking to erase the distinct cultural identities of the peninsula's ethnic Ukrainian and Tatar communities through a pattern of discriminatory acts.

37. In the spring of 2014, not long after the purported annexation of Crimea and in the months leading up to Ukraine's early democratic elections for its new president, the Russian Federation instigated conflict in eastern Ukraine. Whereas in Crimea the Russian Federation asserted control directly, in eastern Ukraine it chose to intervene through proxies, deliberately fomenting instability and implementing the Putinist vision that part of Ukraine should be treated as "Novorossiya" ("New Russia"). The Russian Government began directly and indirectly arming, training, providing money, and otherwise supporting its proxies whose aim was to undermine the constitutional order and divide Ukraine. These Russian proxies loosely organized themselves into various entities, including the so-called Donetsk People's Republic ("DPR"), Luhansk People's Republic ("LPR"), and Partisans of the Kharkiv People's Republic ("Kharkiv Partisans"). Individuals affiliated with these groups seized government buildings in the Donetsk and Luhansk regions of eastern Ukraine, laying the groundwork for an illegitimate military campaign against the Ukrainian Government — as well as a campaign of terrorist violence against the innocent civilian population of Ukraine.

B. The Russian Federation's Sponsorship of Terrorism in Ukraine

1. The Russian Federation's supply of arms, financing, and training with knowledge that its proxies would attack civilians

38. The Russian Federation, acting through its organs, agents, persons, and entities, has pursued a campaign to finance terrorist violence in Ukraine through the provision of weapons, funds, and training to illegal armed groups. Beginning in March 2014, these armed groups, with support from the Russian Federation, seized control over the eastern border between Ukraine and Russia. With Ukraine denied the ability to control its border, the Russian Federation has been able to illegally smuggle weapons, funds, and fighters trained in Russia to armed groups in Ukraine. That assistance is used, in part, to carry out terrorist acts intended to cause death or serious bodily injury to civilians, for the purpose of intimidating the Ukrainian population and compelling action by the Ukrainian Government. Despite mounting evidence that terrorism was an integral component of the strategy and tactics of these illegal armed groups, the Russian Federation escalated the scope of its support.

39. The DPR and the LPR emerged as two of the primary illegal armed groups operating in Ukraine. These organizations and other groups and individuals associated with them are proxies of the Russian Federation: they operate with critical Russian support and assistance, defying Ukrainian and international law, committing acts of terrorism, and inflicting violence and human rights abuses on the people of Ukraine.

40. From their inception, the illegal armed groups associated with the DPR and the LPR exhibited a pattern and practice of attacking and intimidating civilians. As United Nations monitors reported, in the spring of 2014 these groups commit-

ted “an increasing number of acts of intimidation and violence . . . targeting ‘ordinary’ people who support Ukrainian unity or who openly oppose” the so-called “people’s republics”¹⁵. Human rights monitors reported numerous incidents of abduction, hostage-taking, and torture of civilians. For example, when the DPR seized the Regional State Administration building in Donetsk on 4 May 2014, they severely beat and tortured the town councillors, trade union members, and others found inside. Terrorists shot an Orthodox priest in his vehicle in Donetsk, and a couple and their daughter in Luhansk. On 8 May, the burned body of Valeriy Salo, a farmer and head of a local pro-Ukraine cultural organization, was found a day after he was abducted. On 18 May, a group associated with the DPR executed an elderly farmer in a village near Slovyansk. During the same period, United Nations human rights monitors documented a “worrisome trend” of armed groups taking local activists hostage for ransom or political concessions. Further examples abound of the terrorist violence perpetrated by the DPR, the LPR, and associated groups against innocent civilians in eastern Ukraine¹⁶.

41. On one of the most notorious terrorist acts of this period, the abduction, torture, and murder of Horlivka town councillor Volodymyr Rybak, has been linked to DPR leaders with close connections to the Russian Government. Mr. Rybak, well known for his support of Ukrainian unity, was abducted on 17 April 2014 after attempting to raise the Ukrainian flag outside the Horlivka town hall. Intercepted audio shows that Igor Bezler, a high-ranking DPR commander with close ties to Russian intelligence, ordered the abduction of Mr. Rybak. Igor Girkin (a.k.a. “Strelkov”), the self-proclaimed “commander-in-chief” of the DPR, ordered the disposal of his body. Mr. Rybak’s body was found by a river, alongside the body of Yuriy Propavko, a 19-year-old student and activist from Kyiv¹⁷.

42. The demonstrated readiness of Russian-backed armed groups to engage in horrific, violent acts of intimidation against the civilian population did not cause the Russian Federation to withdraw its support. Instead, those violent acts only spurred further Russian assistance. The Russian Federation mobilized to assist its proxies in eastern Ukraine, including in their acts of terrorism. Satellite images reveal that, as early as March 2014, the Russian Federation began massing military equipment and personnel on the border with Ukraine — aircrafts, helicopters, tanks, artillery, infantry fighting vehicles, and special forces.

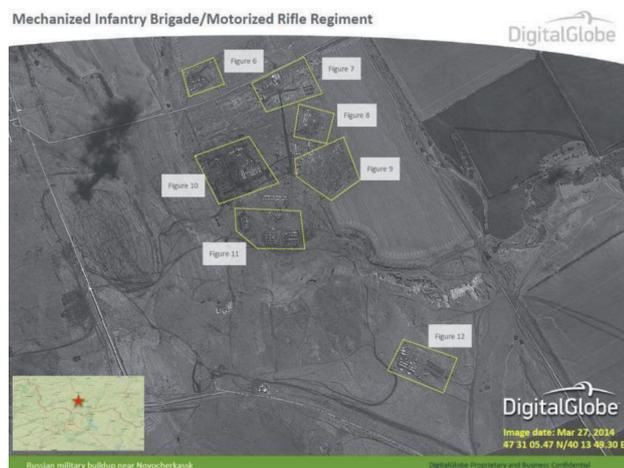
¹⁵ Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (15 June 2014), para. 207.

¹⁶ See, e.g., Office of the United Nations High Commissioner for Human Rights, *ibid.* (15 May 2014), para. 102; *ibid.* (15 June 2014), paras. 199, 205, 207, 209, 210, 214.

¹⁷ Office of the United Nations High Commissioner for Human Rights, “Accountability for Killing in Ukraine from January 2014 to May 2016”, p. 33 (2016).

Figure A

Empty site near Novocherkassk, Russian Federation
before military build-up — 13 May 2013¹⁸

Figure B

Mechanized Infantry Brigade/Motorized Rifle Regiment after military
build-up near Novocherkassk, Russian Federation — 27 March 2014¹⁹

¹⁸ NATO, Supreme Headquarters Allied Powers Europe, *NATO Defends Accuracy of Satellite Images with Additional Proof* (11 April 2014).

¹⁹ *Ibid.*

43. Dutch intelligence likewise discovered documentary evidence “that material was being assembled at collection sites in the west of the Russian Federation to subsequently be supplied to the Separatists”²⁰.

44. In May and June 2014, Russian-backed illegal armed groups, together with Russian troops, seized control over part of the Ukraine-Russia border. With Ukraine’s ability to control its border defeated, the Russian Federation began openly sending weapons and personnel to its proxies, including the DPR and the LPR. On 17 May 2014, for example, six heavy-duty “KamAZ” trucks loaded with firearms crossed the border from the Russian Federation toward Kulnikovo. On 29 May 2014, the Russian Federation sent the Chechen “Vostok” (East) Battalion to support DPR operations. On 30 May 2014, the Diakove border guard division in Luhansk stopped a group of people, including Russian and Ukrainian nationals, unloading 43 pieces of firearms, 74 ammunition boxes, and grenades with the purpose of transferring them to illegal armed groups associated with the LPR.

45. In June and July 2014, as Ukraine mounted anti-terrorist operations to regain territory seized by illegal armed groups, the Russian Federation responded by escalating its supply of heavy weapons to the DPR and the LPR. In June, for example, OSCE monitors reported a military convoy including tanks and armoured personnel carriers traveling from Russia to Luhansk and then Donetsk²¹. Over the next month, the OSCE reported “movement of a significant amount of military hardware across the Russian-Ukrainian border”, including a column of tanks and artillery pieces²². On 12-13 July, the Russian Federation sent a convoy of 150 vehicles to its proxies, including tanks, artillery, and multiple rocket launchers²³.

46. Since then, Russian supplies that fuel terrorist violence in eastern Ukraine have continued to flow persistently into the country. Between December 2014 and February 2015, the Russian Federation supplied at least 500 units of military hardware to the DPR, including 80 tanks, 40 infantry fighting vehicles, 45 armoured personnel carriers, and 37 multiple-launch rocket systems. During the same period of time, the Russian Federation supplied around 200 units of military hardware to the LPR, including 55 tanks, 30 infantry fighting vehicles, and 30 armoured personnel carriers. More recently, in August 2016, the Russian Federation supplied its proxies, including the DPR and the LPR, with 59 tanks, 24 infantry fighting vehicles, four multiple-launch rocket systems, 104 military vehicles, and 94 railway tank-cars of gasoline. All told, the tank fleet and artillery power of the illegal armed groups associated with the DPR and the LPR rivals that of the combined armies of several European countries.

²⁰ See Dutch Safety Board, “Crash of Malaysia Airlines Flight MH17: Hrabove, Ukraine”, 17 July 2014 (hereinafter “DSB Report”), App. T, p. 138.

²¹ Organization for Security and Co-operation in Europe, “Latest from OSCE Special Monitoring Mission in Ukraine Based on Information Received as of 18:00 (Kyiv time)”, 20 June 2014.

²² *Ibid.*, 13 July 2014.

²³ United States Embassy in Ukraine, “Statement concerning the United States Assessment of the Downing of Flight MH17 and Its Aftermath”, 19 July 2014.

47. The Russian Federation also supplied its proxies in eastern Ukraine with critical in-kind support for attacks on Ukrainian territory, including training in the Russian Federation. In Belgorod Oblast and Tambov *Oblast* of the Russian Federation, and in occupied Crimea, the Russian Federation created training camps for its proxies. Indeed, Aleksandr Zakharchenko, a self-proclaimed leader of the DPR, publicly admitted in August 2014 that “[t]here are 1,200 individuals who have gone through training over a four-month period on the territory of the Russian Federation and who have been introduced here at the most decisive moment”²⁴.

48. These illegal armed groups used this Russian assistance in part to engage in traditional combat activities against Ukrainian forces seeking to regain government control over Ukrainian territory. But they also have gone far beyond fighting Ukrainian troops, repeatedly inflicting violence on civilian populations in an attempt to intimidate them and to dissuade the Ukrainian Government from attempting to reassert its authority in eastern Ukraine. As their firepower grew, the Russian-backed groups transitioned from small-scale violence against individual civilians to large-scale attacks targeting civilians or indiscriminately firing on civilian areas. These acts of terrorism were sponsored by the Russian Federation, and the Russian Federation further failed to halt or investigate the financing that contributed to these attacks.

2. *The attack on Malaysia Airlines Flight MH17*

49. By the early summer of 2014, the Russian Federation was well aware that its proxies operating on Ukrainian territory were engaged in a pattern and practice of terrorizing civilians. Yet rather than intervening to abate those actions, the Russian Federation’s response was to substantially increase these groups’ firepower by supplying them with powerful weapons. An early result of this decision was the attack on Malaysia Airlines Flight MH17.

50. In July 2014, as part of this escalation of arms supplies and other support, the Russian Federation delivered a Buk surface-to-air missile system to DPR-associated forces. Those illegal armed groups used the Buk system to commit a devastating surface-to-air attack, destroying a civilian airliner transiting Ukraine airspace and murdering the 298 individuals on board. The shoot-down of Malaysia Airlines Flight MH17 was immediately condemned by the international community, and the Security Council demanded accountability²⁵.

²⁴ Shaun Walker, “Ukraine Rebel Leader Says He Has 1,200 Fighters ‘Trained in Russia’ under His Command”, *The Guardian* (16 August 2014).

²⁵ United Nations Security Council resolution 2166, UN doc. S/RES/2166 (21 July 2014).

Figures C and D

Wreckage of Flight MH17²⁶ and body bags containing remains of the victims²⁷

51. Malaysia Airlines Flight MH17 was a Boeing 777-200 in transit from Amsterdam to Kuala Lumpur on 17 July 2014. The civilian airliner was following its standard flight plan, cruising at 33,000 feet, an altitude reserved for civilian air traffic in a corridor frequently used for such traffic. The Dutch Safety Board, after an extensive investigation, determined that at 16:20:03 local time (15:20:03 CET), while transiting Ukrainian airspace in the eastern part of the country, Flight MH17 was destroyed by a 9M38 series missile launched by a Buk system²⁸. The Dutch Safety Board found that the Buk missile was launched from an area in the vicinity of Snizhne, Ukraine²⁹. A joint investigation team comprised of Australian, Belgian, Malaysian, Dutch, and Ukrainian officials reached the same conclusion and identified the missile, the type of Buk system used, and the exact location of the launch site³⁰. The DPR and its affiliates, buttressed by Russian support, had complete control over the launch area at the time of the attack.

52. Investigators considered an array of alternative explanations for the destruction of Flight MH17 — human error, technical malfunction, sabotage from within the aircraft, an attack by an alternative weapons system or from a different location. All of these possibilities were ruled out³¹. The evidence points in one direction only: the attack on Flight MH17 was carried out by elements of the DPR, who fired at an aircraft exhibiting ordinary civilian characteristics.

²⁶ *Deutsche Welle News*, “MH17 Photographer Recalls Grim Crash Day” (16 July 2015).

²⁷ *Radio Free Europe/Radio Liberty*, “Scenes of Tragedy at the MH17 Crash Site” (16 July 2015).

²⁸ DSB Report, p. 136. This investigation into the crash of Flight MH17 was conducted by the Dutch Safety Board in accordance with the international regulations that apply to independent accident investigation, laid down in Annex 13 to the Convention on International Civil Aviation. See also Joint Investigation Team, *Presentation Preliminary Results Criminal Investigation MH17* (hereinafter “JIT Presentation”), Openbaar Ministerie [Public Prosecution Service] (28 September 2016). The Joint Investigation Team comprises law enforcement officials of the grieving nations most affected by the shoot-down of MH17.

²⁹ DSB Report, p. 144.

³⁰ JIT Presentation.

³¹ DSB Report, pp. 116-31; JIT Presentation.

53. These perpetrators committed this terrorist attack with the direct support of the Russian Government. The DPR specifically requested such a Buk system from its Russian sponsors³². During the night of 16-17 July 2014, Russian agents clandestinely transported the Buk system and its crew from the territory of the Russian Federation into Ukraine in Luhansk *oblast*, approximately 117 kilometres from the Millerovo military airbase in the Russian Federation. Russian operatives ultimately delivered the system to DPR-associated personnel in DPR-controlled territory near Snizhne. Eyewitnesses saw and photographed the weapon several times on its journey from the Russian Federation to Snizhne, where it was used to destroy Flight MH17³³.

Figure E



Image from a video in the possession of the Joint Investigation Team, showing Buk missile near Donetsk in transit to launch site³⁴

54. After the attack, the DPR returned the Buk system to the Russian Federation. When the Buk system was seen returning to the Russian border, having performed its function, it was missing at least one missile³⁵. There is no evidence that Russian authorities investigated, arrested, or punished those who supported this act of terrorism.

³² JIT Presentation.

³³ *Ibid.*

³⁴ Lizzie Dearden, “MH17: How Investigators Were Able to Prove Rebels Shot Down Plane with Missile from Russia”, *The Independent* (28 September 2016).

³⁵ JIT Presentation.

Figure F

Route of the Buk system used in the attack on Flight MH17³⁶

55. DPR leaders initially claimed responsibility for the attack. For example, top DPR leader Igor Girkin posted a statement and video footage claiming credit for the DPR³⁷. Only after the full scope of international condemnation became clear did the DPR seek to cover up its role in committing this Russian-sponsored attack.

56. When the Russian Federation delivered this deadly surface-to-air missile system to the DPR, it knew precisely the type of organization it was aiding. Self-proclaimed DPR leaders such as Girkin and Bezler were already presiding over a reign of terror in eastern Ukraine, including the murder of civilians who supported Ukrainian unity. The Russian Government knew or should have known that their proxies would use these powerful anti-aircraft weapons in a manner consistent with their previous pattern of disregard for civilian life.

57. Indeed, on 21 July 2014, days after the attack, Russian President Vladimir Putin declared: “All those who are responsible for the situation in the region must take greater responsibility before their own peoples and before the peoples of the countries whose citizens were killed in this disaster.”³⁸ But there is no evidence that

³⁶ *BBC News*, “MH17 Missile ‘Came From Russia’, Dutch-Led Investigators Say” (28 September 2016).

³⁷ Сводки от Стрелкова Игоря Ивановича [Reports from Igor Ivanoich Strelkov], ВКонтакте [VKontakte] (17 July 2014), archived at https://web.archive.org/web/20140717155720/https://vk.com/wall-57424472_7256; see also *The New Zealand Herald*, “MH17: Pro-Russian Separatist Boasts Online about Shooting Down Plane” (18 July 2014).

³⁸ President of Russia Official Website, Statement by President of Russia Vladimir Putin (21 July 2014), <http://en.special.kremlin.ru/events/president/transcripts/46262>.

the Russian Federation has taken any responsibility before the peoples of the world for supporting this horrific terrorist act.

3. *The shelling of Ukrainian civilian populations*

58. The MH17 tragedy underscored that the DPR and associated groups would use Russian-supplied weapons for attacks on civilians. Yet despite the deadly consequences of this support, the Russian Federation not only failed to investigate or punish the financing of terrorism in Ukraine, but continued to deliver heavy weaponry to its proxies, including the DPR, surely aware that more civilians would die in terrorist attacks as a result.

59. On 13 January 2015, illegal armed groups associated with the DPR launched an artillery bombardment against the Ukrainian civilian population, using weapons and training provided by the Russian Federation. The DPR targeted a civilian-vehicle checkpoint (the “Buhas checkpoint”) located approximately two kilometres north of the Ukrainian town of Volnovakha. The Buhas checkpoint regulated civilian traffic between Government- and DPR-controlled territory. At any given time, it was common for hundreds of civilian vehicles to be present in the area³⁹.

60. When the DPR launched its attack on Volnovakha, more than 50 separate explosions detonated within seconds of each other, spanning hundreds of metres. One explosion ejected rocket shrapnel into a civilian passenger bus following its ordinary route⁴⁰. The ordnance pierced the broad side of the bus and killed ten passengers instantly. Two more passed away at the hospital from injuries sustained during the attack, and 17 were injured.

Figure G



Civilian bus hit in Volnovakha attack⁴¹

³⁹ Organization for Security and Co-operation in Europe, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine Based on Information Received as of 28 August 2015” (28 August 2015).

⁴⁰ *Ibid.* (17 January 2015).

⁴¹ *Ukraine Today*, “12 Bus Passengers Killed by Insurgent Artillery Strike in Donetsk Region” (14 January 2014).

61. The OSCE determined that the explosions were caused by rockets fired from a Russian-made, truck-mounted, 122 mm BM-21 “Grad” Multiple Launch Rocket System (“MLRS”). Through a crater analysis, the OSCE concluded that the rockets had been fired from a north-north-easterly direction⁴². That area was controlled by the DPR, and members of the DPR and illegal armed groups associated with it initially claimed credit for the attack on social media⁴³.

62. The DPR carried out this attack on a civilian bus in Volnovakha using heavy weaponry supplied by the Russian Federation. In the months preceding the attack, the Russian Federation provided the DPR and other Russian-backed illegal armed groups with the precise type of weapon system — the BM-21 Grad MLRS — used in the Volnovakha attack. A Russian service member of the Ninth Independent Motor Rifle Brigade confirmed on video that his unit was instructed to smuggle heavy weaponry, including the BM-21 Grad MLRS, disguising factory symbols and other marks that would indicate their true Russian origin⁴⁴. Russian military units then transferred the “sanitized” weapons to Chechens for further delivery to Russian-backed groups in eastern Ukraine⁴⁵. One version of the BM-21 system, the KamAZ 5350 Grad-K, is used only by the Russian (and not Ukrainian) military, and yet has been found in the possession of individuals associated with the DPR⁴⁶.

63. On 24 January 2015, less than two weeks after the Volnovakha bus attack, illegal armed groups associated with the DPR used similar Russian-supplied weapons to attack a residential area in the Ukrainian coastal city of Mariupol. Mariupol is a strategic port city lying on the north coast of the Sea of Azov, and an obstacle to the Russian proxies’ objective of linking the territory under their control to Russian-occupied Crimea. In January 2015, the DPR launched a massive bombardment of the city.

64. At least 19 individual rocket volleys detonated across a 1.6-by-1.1 kilometre area of Mariupol — a neighbourhood containing an open market, civilian buildings, retail shops, private homes, and a school⁴⁷. The terrorist attack killed 30 civilians and wounded 120 others, among them women, children, and the elderly. The United Nations Under-Secretary-General for Political Affairs determined that

⁴² Organization for Security and Co-operation in Europe, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine Based on Information Received as of 18:00 (Kyiv time), 16 January 2015” (17 January 2015).

⁴³ See, e.g., Aric Toler, *Unpicking the Donetsk People’s Republic’s Tangled Volnovakha Bus Massacre Narrative*, Bellingcat (18 January 2015).

⁴⁴ ІНФОРМАЦІЙНО-АНАЛІТИЧНИЙ ЦЕНТР [The Ukraine Information and Analysis Centre], *Російський військовослужбовець Петро Хохлов: ЗС РФ ввозить важке озброєння в Україну* [Russian soldier Petr Khokhlov, Armed Forces Importing Heavy Weapons in Ukraine], YouTube (published 28 August 2014), <https://www.youtube.com/watch?v=vwllmlGuMz0&feature=youtu.be>.

⁴⁵ *Ibid.*

⁴⁶ See Atlantic Council, “Hiding in Plain Sight: Putin’s War in Ukraine” and “Boris Nemtsov’s Putin. War.” (2015), p. 21 and note 91.

⁴⁷ Organization for Security and Co-operation in Europe, “Spot Report by the OSCE SMM to Ukraine, 24 January 2015: Shelling Incident on Olimpiiska Street in Mariupol” (24 January 2015).

the perpetrators “knowingly targeted a civilian population”, and Secretary-General Ban Ki-moon condemned the atrocity as “indiscriminate”⁴⁸.

Figures H, I and J



Civilians observing the death and destruction caused by the shelling of a residential area of Mariupol⁴⁹

65. The same day as the attack, Aleksandr Zakharchenko, the self-styled “Prime Minister” of the DPR, claimed credit for an “offensive” on Mariupol⁵⁰. A subsequent OSCE investigation confirmed that the attacks originated from DPR-controlled territory⁵¹. The investigation further established that the attack used the same Grad rockets fired at Volnovakha, as well as the more advanced BM-27 Uragan MLRS, a system capable of launching 16 rockets simultaneously⁵². Ukrainian authorities had previously observed and confiscated units of the BM-21 Grad MLRS and the BM-27 Uragan system that were smuggled across the border from the Russian Federation.

⁴⁸ Spokesman for the United Nations Secretary-General Ban Ki-moon, Statement Attributable to the United Nations Secretary-General Ban Ki-moon on Ukraine (24 January 2015); United Nations Security Council Official Record, 7368th meeting., p. 2, UN doc. S/PV.7368 (26 January 2015) (statement of Jeffrey Feltman, United Nations Under-Secretary-General for Political Affairs).

⁴⁹ Christopher Miller, “Rockets Rain on Eastern Ukrainian Port City, Killing at Least 30”, *Mashable* (24 January 2015); Oliver Carroll, “Ukraine Crisis: Rocket Attack in Mariupol Kills and Injures Dozens”, *The Independent* (24 January 2015).

⁵⁰ Alessandra Prentice and Pavel Polityuk, *Pro-Russian Rebels Attack Key Port; Ukraine Says at Least 30 Dead*, Reuters (24 January 2015).

⁵¹ Organization for Security and Co-operation in Europe, “Spot Report by the OSCE SMM to Ukraine, 24 January 2015: Shelling Incident on Olimpiiska Street in Mariupol” (24 January 2015).

⁵² *Ibid.*

66. Notwithstanding the international condemnation of the Mariupol attack, the DPR and associated illegal armed groups continued their Russian-fuelled campaign of terror. On 10 February 2015, these groups launched an aerial rocket attack against another group of civilians in the town of Kramatorsk. The DPR bombarded a densely-populated area, including beauty salons, retail banks, and cafes. The attack killed seven civilians and seriously injured 26 more — including five children⁵³. The OSCE Chief Monitor in Ukraine determined that the shelling of this civilian area was “indiscriminate”⁵⁴.

Figures K and L



Civilians observing the death and destruction caused by the shelling of a residential area of Kramatorsk⁵⁵

67. The OSCE investigation determined that the multiple rocket attacks on Kramatorsk originated from a south-south-easterly direction, an area that was under DPR control⁵⁶. The OSCE further determined that the attack was likely perpetrated using a BM-30 Smerch MLRS system⁵⁷. Video shows a column of Smerch systems in the area of DPR-controlled Makiivka, near the likely launch site. As the independent Armament Research Services (a technical weapons consultancy on which the International Committee of the Red Cross relies) indicated, the DPR and its associates could only have received this system from the Russian military⁵⁸.

⁵³ Organization for Security and Co-operation in Europe, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine Based on Information Received as of 18:00 (Kyiv time), 10 February 2015” (11 February 2015).

⁵⁴ Organization for Security and Co-operation in Europe, “Statement by OSCE Chief Monitor in Ukraine on Situation in Kramatorsk” (10 February 2015).

⁵⁵ Sam Matthew, “Killed without Warning and Left Abandoned in the Snow: Chilling Picture of Woman’s Body after Rocket Attack Kills Six Civilians in Ukraine ahead of Peace Talks”, *Daily Mail* (11 February 2015).

⁵⁶ Organization for Security and Co-operation in Europe, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine Based on Information Received as of 18:00 (Kyiv time), 10 February 2015” (11 February 2015).

⁵⁷ *Ibid.*

⁵⁸ See Armament Research Services, “Raising Red Flags: An Examination of Arms and Munitions in the Ongoing Conflict in Ukraine” (*Research Report No. 3*) (2014), p. 73.

68. The tragic terrorist attacks on civilians in Volnovakha, Mariupol, and Kramatorsk by Russian-backed armed groups were far from isolated or disconnected incidents. For example, DPR-associated groups also shelled civilian areas in the town of Debaltseve — including targeted assaults on convoys of civilians seeking to evacuate to safety⁵⁹. The Russian Federation, through its financing of illegal armed groups like the DPR and the LPR, is responsible for sponsoring this campaign of terrorist attacks.

4. *The bombing of civilians in Ukrainian cities*

69. Russian-funded terrorists have also struck at peaceful Ukrainian cities, far from the fighting in eastern Ukraine. Between July 2014 and April 2015, Ukraine's second-largest city, Kharkiv, was struck by a series of bomb attacks instigated by the Russian Federation and executed with Russian assistance. Kharkiv lies about 40 kilometres from the Russian border, and approximately 145 kilometres away from the Donetsk and Luhansk regions where combat operations were occurring. The United Nations has reported more than 45 explosions in Kharkiv⁶⁰. The perpetrator of at least some of these attacks, including the deadliest, was a terror organization called the Kharkiv Partisans, a group with close ties to both the Russian Federation and the DPR. The city of Odessa on the coast of the Black Sea has also experienced a wave of bombings.

70. On 9 November 2014, members of the Kharkiv Partisans planted an explosive device at the Stena Rock Club, a nightclub in the city centre. The club was popular with local volunteers and activists who supported national unity. Late in the evening, the bomb detonated and injured 13 civilians, leaving two in serious condition⁶¹. The members of the Kharkiv Partisans who carried out the attack were trained to do so in the Russian Federation. When the perpetrators were arrested, Ukrainian law enforcement authorities discovered Russian-made landmines in their possession.

71. A further bombing campaign followed, including an explosion on a freight car and at an electrical substation⁶². On 9 February 2015, a bomb was detonated at a notary's office.

72. The deadliest terrorist bombing occurred on 22 February 2015 at a peaceful march. Following a rally to mark the one-year anniversary of Ukraine's Revolution of Dignity and the deaths of protesters who had been murdered in the Maidan demonstrations, 500 people carried the Ukrainian flag to Liberty Square. Kharkiv Partisans operatives detonated a bomb containing TNT and shrapnel, concealed

⁵⁹ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (1 December 2014-15 February 2015), para. 29; Organization for Security and Co-operation in Europe, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine Based on Information Received as of 18:00 (Kyiv time), 6 February 2015".

⁶⁰ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 February-15 May 2015), para. 24.

⁶¹ Organization for Security and Co-operation in Europe, "Latest from OSCE Special Monitoring Mission (SMM) to Ukraine, Based on Information Received as of 18:00 (Kyiv time), 13 November 2014" (14 November 2014); *ibid.* (11 November 2014).

⁶² *Ibid.* (24 November 2014); *ibid.* (21 November 2014).

in a plastic bag, at the front of the march. Three people, including a 15-year-old boy and a police officer, were killed, and 15 were wounded⁶³.

Figure M



Investigation of unity march bombing in Kharkiv⁶⁴

73. This terrorist attack was supported by the Russian Federation. The perpetrators were trained in sabotage by Russian officials at a military base in Belgorod, just across the border from Kharkiv. An agent of the Russian security services planted a Russian-made MON-100 anti-personnel mine at a “dead drop” location in Kharkiv, which the Kharkiv Partisans collected and used in their attack.

5. *The Russian Federation’s refusal to co-operate in preventing and investigating the financing of terrorism*

74. The Russian Federation has not just ignored its commitment to prevent and investigate the financing of terrorism; it has turned that commitment on its head, embracing a State policy to directly finance repeated acts of terrorism in Ukraine.

⁶³ Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 February-15 May 2015), para. 24; Organization for Security and Co-operation in Europe, “Latest from OSCE Special Monitoring Mission (SMM) to Ukraine Based on Information Received as of 18:00 (Kyiv time), 23 February 2015” (24 February 2015); Organization for Security and Co-operation in Europe, “Spot Report by Special Monitoring Mission to Ukraine, 22 February 2015: Explosion in Kharkiv at March Commemorating February 2014 Pro-Maidan Events” (22 February 2015).

⁶⁴ Andrew E. Kramer, “New Violence Belies Talk of Peace in Ukraine”, *New York Times* (22 February 2015).

The Russian Federation has also failed to co-operate with Ukraine to prevent such financing by public officials and private citizens of the Russian Federation, and to investigate any violations of the Convention being committed on its own territory. Despite repeated requests for assistance and co-operation by Ukraine within the framework of the Terrorism Financing Convention, the Russian Federation has refused to honour its commitments to combat the financing of terrorism.

75. In October 2014, Ukraine sought the co-operation of the Russian Federation in its investigation of four officials suspected of financing terrorism: Sergei Kuzhegetovich Shoigu, Minister of Defence of the Russian Federation; Vladimir Volfovich Zhirinovskiy, Vice-Chairman of the State Duma; Sergei Mikhailovich Mironov, member of the State Duma; and Gennadiy Andreyevich Zyuganov, member of the State Duma. The Russian Federation failed to promptly respond to these requests, and eventually replied only in cursory fashion, issuing an unexplained denial of the allegations. However, Mr. Zhirinovskiy has admitted to supplying military equipment to illegal armed groups associated with the LPR⁶⁵, and Mr. Mironov has been publicly thanked by the self-proclaimed leader of the LPR for his support⁶⁶. Moreover, in light of the significant evidence of the Russian military's role in transferring weapons to terrorists in Ukraine for use in attacks such as the shoot-down of Flight MH17, there is ample basis to investigate the Defence Minister. Quite simply, the Russian Federation failed to investigate or co-operate with these requests in good faith.

76. The Russian Federation's refusal to co-operate as required under the Terrorism Financing Convention has been widespread. In addition to requesting assistance concerning these high-ranking officials implicated in the financing of terrorism, Ukraine has specifically identified a large number of military personnel and other Russian officials who are complicit. Consistent with its pattern of non-co-operation, the Russian Federation has refused to provide assistance, without any indication that it has conducted an independent investigation.

77. Ukraine has also requested assistance relating to numerous Russian nationals suspected of smuggling weapons and ammunition into Ukraine for use in terrorism. For example, Ukraine requested assistance relating to the prosecution of Ms O. Kulygina and Mr. N. Kozitsyn, Russian citizens who had illegally smuggled weapons to groups engaged in terrorism in Ukraine. The Russian Federation refused to co-operate, citing only perfunctory and baseless objections to the adequacy of Ukraine's requests. Similarly, more than a dozen legal assistance requests have been pending with Russian authorities for more than a year, without any action or response at all. The Russian Federation is simply ignoring its obligation

⁶⁵ See, e.g., 161.ru, *Подарок Жириновского ополченцам* ["Zhirinovskiy's Gift to the Militias"], YouTube (published 6 May 2014), <https://www.youtube.com/watch?v=4Yx3h9dZhEU>; Либерально-демократическая партия России [The Liberal Democratic Party of Russia], *ЛДПР отправляет в дар патриотам Луганска автомобиль «ТИГР» и лекарства* ["Liberal Democratic Party of Russia Sends a 'Tiger' Vehicle and Medicine as Gifts to the Patriots in Luhansk"] (6 May 2014), http://ldpr.ru/events/videos/liberal_democratic_party_sends_gifts_patriots_lugansk_car_tiger_and_drugs/.

⁶⁶ See, e.g., Официальный сайт Политической партии СПРАВЕДЛИВАЯ РОССИЯ [Official website of the political party A JUST RUSSIA], *Сергей Миронов получил благодарственное письмо от главы ЛНР Валерия Болотова* ["Sergei Mironov Received a Thank You Letter from the Head of the LPR Valery Bolotov"] (11 July 2014), http://www.spravedlivo.ru/5_61825.html.

to co-operate in good faith in the prevention and prosecution of the financing of terrorism.

78. The Russian Federation has also ignored numerous requests to halt a massive fundraising operation, conducted in its territory, in support of terrorism in Ukraine. Several groups are raising funds for armed groups that commit terrorism, using State-owned Russian banks, including Sberbank, the largest in the country⁶⁷. Russian regulators are well-equipped to block terror-related fundraising; in 2015, the head of the Federal Service for Financing Monitoring reported that the agency had frozen 3,500 bank accounts suspected of terrorist connections in other countries. Ukraine has urged the Russian Federation to take similar action to block the financing of terrorism in Ukraine, making specific requests concerning several financial institutions, including Sberbank, Yandex, WebMoney, Kolibri, Zolota Korona, Bank Kredyt Dnipro, and Terra Bank. Not only has the Russian Federation taken no action, it has not even responded to Ukraine's requests for assistance under the Terrorism Financing Convention.

79. Ukraine has also identified specific individuals present on the territory of the Russian Federation responsible for raising funds for terrorists in Ukraine. For example, Ukraine requested assistance with respect to Olexandr Zhukovskiy, providing identifying information and a link to a social media page containing photographic evidence of his efforts in support of DPR-associated illegal armed groups. The Russian Federation took no action on this request for nearly a year, during which time Mr. Zhukovskiy posted photographs showing himself at a meeting where he raised 120,000 roubles for the DPR. The Russian Federation not only failed to provide any assistance, but remarkably also denied that there was any information showing that anyone by Mr. Zhukovskiy's name even existed on Russian territory.

80. The Russian Federation's wilful refusal to co-operate in good faith is emblematic of its overall strategy: to denounce terrorism and deny involvement in Ukraine, while at the same time directly and indirectly financing terrorism in Ukraine as a barely-disguised State policy. Even while its treaty obligations mandate co-operation in the prevention of terrorist financing, the Russian Federation has done the opposite, sponsoring terrorism itself, rejecting co-operation, and countenancing terrorist financing activities on its territory.

C. The Russian Federation's Campaign of Cultural Erasure through Discrimination in Crimea

81. While supporting terrorism in eastern Ukraine, the Russian Federation and its agents, including the *de facto* authorities of Crimea, have simultaneously conducted a campaign of discrimination against the non-Russian ethnic communities of the Crimean peninsula. In occupying and purporting to annex Crimea, Russian authorities determined that the peninsula's non-Russian communities should be

⁶⁷ Jo Beckler and Steven Lee Myers, "Russian Groups Crowdfund the War in Ukraine", *New York Times* (11 June 2015).

considered enemies of the Russian régime. The Russian Federation has meted out collective punishment aimed at suppressing and erasing the cultural heritage of these communities, and imposing a régime of ethnic Russian dominance.

82. The Crimean peninsula has historically had a diverse, multi-ethnic population, including large communities of ethnic Russians, ethnic Ukrainians, and Crimean Tatars. In the last census taken before the purported annexation, out of a population of approximately 2.3 million people, 58 per cent were ethnic Russians, 24 per cent were ethnic Ukrainians, and 12 per cent were Crimean Tatars⁶⁸.

83. Ethnic Ukrainians in Crimea associate strongly with the Ukrainian State and culture, identifying with Ukraine's struggle for independence. They preserve and promote awareness of Ukrainian culture, history, literature, music, and language on the Crimean peninsula, where the ethnic Russian community outnumbered the ethnic Ukrainian community.

84. The Crimean Tatars are a Turkic people with a long history on the Crimean peninsula since the days of the Golden Horde in the thirteenth century. Before 1783 they controlled their own state, the Crimean Khanate, but that state was conquered and annexed by the Russian Empire in 1783, which began forcing many Tatars out of the territory. In 1944, this cultural trauma was repeated and extended, as Joseph Stalin invoked false claims of collaboration with the Nazis as a justification to ethnically cleanse the peninsula of the Tatar community. That mass deportation of the Crimean Tatars (the "*Sürgün*") remains a potent and traumatic cultural memory.

85. In 1989, after nearly half a century in exile, the Soviet Union permitted the Tatars to return to their homeland. Mustafa Dzhemilev, a famous human rights activist and Soviet dissident who had been deported from Crimea in 1944, led the community in its return. The Crimean Tatar community subsequently witnessed a cultural rebirth in an autonomous Crimea under Ukrainian sovereignty. Central to the community's revival was the establishment of the *Mejlis* of the Crimean Tatar People, a representative and executive body dedicated to "eliminat[ing] the consequences of the genocide, committed by the Soviet state against Crimean Tatars", and implementing the community's "right to free national self-determination in its national territory"⁶⁹. Mr. Dzhemilev led the *Mejlis* from 1991 until 2013, when he was replaced by Refat Chubarov.

1. *The illegal referendum amidst a climate of discrimination*

86. As a critical initial step in implementing its policy of establishing Russian dominance on the Crimean peninsula, the Russian Federation engineered a "referendum" to create a façade of legality for its subsequent annexation of Crimea. This so-called referendum was, as the Council of Europe's Venice Commission concluded, inconsistent with the constitutions of both Ukraine and the Autonomous

⁶⁸ State Statistics Committee of Ukraine, *About Number and Composition Population of Autonomous Republic of Crimea by Data, All-Ukrainian Population Census*, <http://2001.ukrcensus.gov.ua/eng/results/general/nationality/Crimea>.

⁶⁹ *Mejlis* of the Crimean Tatar People, *General Information about Mejlis*, <http://qtmm.org/en/general-information-about-mejlis>.

Republic of Crimea, as well as general constitutional principles⁷⁰. The referendum was also invalid under international law, as the United Nations General Assembly has recognized⁷¹.

87. These fundamental defects in the Russian Federation's purported referendum were compounded by the acts of discrimination associated with it. In order to avoid disruptions to its plan to seize and annex Crimea, the Russian Federation fostered an atmosphere of intense political intimidation. Leading up to the referendum, Crimea was overrun with soldiers without insignia mobilized by the Russian Federation. As United Nations observers reported, the presence of these Russian forces was "not conducive to an environment in which the will of the voters could be exercised freely"⁷².

88. This intimidation was focused on the non-Russian communities of the peninsula. As the OSCE reported, during preparations for the referendum, "ethnic Ukrainians and Crimean Tatars on the peninsula were in a particularly vulnerable position"⁷³. Many ethnic Ukrainians and Crimean Tatars were abducted, beaten, or detained by soldiers or so-called "self-defence" groups⁷⁴. One prominent case was the disappearance of Reshat Ametov, a well-known Tatar activist and father of three. On 3 March 2014, Mr. Ametov was standing in silent protest in front of the Cabinet of Ministers building in Simferopol, when uniformed "self-defence" forces affiliated with the Russian occupation kidnapped him. Two weeks later, Mr. Ametov was found dead, with signs of torture on his body⁷⁵.

89. This threatening conduct by Russian forces and their agents prior to the referendum targeted ethnic Ukrainians and Crimean Tatars, while sparing the Russian-speaking population of Crimea. As United Nations observers assessed, "Russian-speakers have not been subject to threats in Crimea", while ethnic Ukrainians and Tatars experienced "discrimination and violence"⁷⁶. During this tense period before the referendum, for example, Crimean Tatars found the walls and gates of their homes marked with crosses, heightening the anxious mood. Temporary checkpoints were installed in Crimean Tatar settlements three or

⁷⁰ See Council of Europe, European Commission for Democracy through Law (Venice Commission), *Opinion on Whether the Decision Taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to Organize a Referendum on Becoming a Constituent Territory of the Russian Federation or Restoring Crimea's 1992 Constitution Is Compatible with Constitutional Principles* (hereinafter "Venice Commission Opinion"), CDL-AD(2014)002 (21-22 March 2014).

⁷¹ See United Nations General Assembly resolution 68/262, UN doc. A/RES/68/262, "Territorial Integrity of Ukraine" (27 March 2014).

⁷² Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (15 April 2014), para. 86.

⁷³ Organization for Security and Co-operation in Europe, "Human Rights Assessment Mission in Ukraine", *Human Rights and Minority Rights Situation* (12 May 2014), p. 85.

⁷⁴ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (15 April 2014), para. 86; see also Organization for Security and Co-operation in Europe, "Human Rights Assessment Mission in Ukraine", *Human Rights and Minority Rights Situation* (12 May 2014), paras. 87-88.

⁷⁵ Office of the United Nations High Commissioner for Human Rights, "Accountability for Killings in Ukraine from January 2014 to May 2016", para. 121; Human Rights Watch, *Crimea: Disappeared Man Found Killed* (18 March 2014).

⁷⁶ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (15 April 2014), para. 89.

four days before the referendum. Ukrainian journalists were beaten and abducted, including outside of polling stations⁷⁷.

90. The referendum itself was designed to discriminate against non-Russians. The question was not neutrally framed, providing no clear option for voters to preserve the status quo. This unbalanced process necessarily and disproportionately harmed the political rights of the non-Russian ethnic communities of the Crimean peninsula, which had strong reason to fear Russian dominance and wished to retain the protection of Ukrainian law. Indeed, as the Venice Commission recognized, “[d]ue to the multi-ethnic composition of the population of Crimea”, it “would have been particularly important” to respect each community and seek a consensual solution⁷⁸. Instead, amid a climate of fear and intimidation they had fostered, Russian authorities rushed through a biased referendum, running roughshod over the rights of non-Russian ethnic communities.

91. In the aftermath of the referendum, the Russian Federation targeted ethnic Ukrainians and Tatars for their protests during that period. Russian authorities carried out one-sided arrests and prosecutions of participants in protests and street turmoil pre-dating the purported annexation. One of these individuals was the Deputy Chairman of the *Mejlis*, Akhtem Chiygoz, who remains in custody⁷⁹. Authorities also arrested and prosecuted ethnic Ukrainian activists on trumped-up charges⁸⁰. The Russian Federation subjected ethnic Ukrainians and Tatars to these prosecutions for pre-referendum conduct — even though the Russian Federation officially claims it did not control Crimea at that time.

92. Based on the alleged results of the illegal referendum, carried out in an atmosphere of ethnic intimidation and violence fostered by the Russian Federation and its agents, the Russian Federation purported to annex Crimea. That unlawful act opened the door to what has become a sustained campaign of discrimination against non-Russian communities, which were considered opponents of the occupation régime and targeted for cultural erasure.

2. *Discrimination against the Crimean Tatar community*

93. After the Tatars refused to support the illegal annexation of Crimea, the Russian Federation imposed a collective punishment on the Crimean Tatar People. With attacks on the Tatar People, their leaders, and their institutions, the Rus-

⁷⁷ See Organization for Security and Co-operation in Europe, “Human Rights Assessment Mission in Ukraine”, *Human Rights and Minority Rights Situation* (12 May 2014), paras. 116, 125-131, 156; United Nations Human Rights Council, “Report of the Special Rapporteur on Minority Issues on Her Mission to Ukraine (7-14 April 2014)”, UN doc. A/HRC/28/64/Add.1 (26 August 2014), para. 51.

⁷⁸ See Venice Commission Opinion.

⁷⁹ Organization for Security and Co-operation in Europe, “Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)” (17 September 2015), para. 236.

⁸⁰ See Radio Free Europe/Radio Liberty, “Ukrainian Jailed in Crimea over Euromaidan ‘Murder’ Charge” (10 June 2016); Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 February-15 May 2016), para. 189.

sian Federation launched a systematic campaign of discrimination aimed at the cultural erasure of a perceived opponent of the régime.

94. In a haunting echo of the *Sürgün*, the Russian assault on the Tatar community has caused a huge portion of the community to flee. In the 2001 census, there were 243,400 Crimean Tatars living on the peninsula, comprising 12 per cent of the population⁸¹. A census taken by the Russian Federation in 2015 counted only 42,254 Tatars — just 2 per cent of the population⁸². The United Nations High Commissioner for Refugees has reported that most displaced persons from Crimea have been Tatars, and has cited the pressure on their community under Russian rule as the reason for the exodus⁸³.

(a) *Political and cultural suppression*

95. In the immediate aftermath of the purported annexation, the Russian Federation began to attack the leaders of the Crimean Tatar community. After the Tatar community refused to recognize the illegal occupation, the Russian Federation promptly retaliated against Mr. Dzhemilev by banning him from Crimea for five years, as well as pursuing criminal charges against his son⁸⁴. The Russian Federation likewise exiled Mr. Dzhemilev's successor and chairman of the *Mejlis*, Refat Chubarov⁸⁵. Occupation authorities have excluded numerous other Tatar leaders from the territory, and have otherwise placed restrictions on their freedom of movement.

96. In August 2016, the Russian Federation shocked the international community by employing a brutal Soviet technique for suppressing dissent. Occupation authorities involuntarily committed Ilmi Umerov, the Deputy Chairman of the *Mejlis*, to a psychiatric hospital for three weeks. The Chair of the OSCE Parliamentary Assembly's human rights committee described Mr. Umerov's

⁸¹ State Statistics Committee of Ukraine, *About number and composition population of Autonomous Republic of Crimea by data all-Ukrainian population census*, <http://2001.ukrcensus.gov.ua/eng/results/general/nationality/Crimea>.

⁸² Russia Census in the Republic of Crimea, *National Composition of the Population* (18 August 2015), http://crimea.gks.ru/wps/wcm/connect/rosstat_ts/crimea/ru/census_and_researching/census/crimea_census_2014/score_2010/.

⁸³ United Nations High Commissioner for Refugees, *Profiling and Needs Assessment of Internally Displaced Persons (IDPs)* (17 October 2014), p. 57; see also Office of the Prosecutor of the International Criminal Court, *Report on Preliminary Examination Activities* (14 November 2016), para. 172.

⁸⁴ See Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (15 May 2014), para. 152; Organization for Security and Co-operation in Europe, "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)" (17 September 2015), para. 229; Amnesty International Public Statement, *Harassment and Violence against Crimean Tatars by State and Non-State Actors* (23 May 2014).

⁸⁵ See Organization for Security and Co-operation in Europe, "Thematic Report: Freedom of Movement across the Administrative Boundary Line with Crimea" (19 June 2015), p. 9; Organization for Security and Co-operation in Europe, "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)" (17 September 2015), para. 152.

detention as “a worrying new low in Russia’s stigmatization of the Crimean Tatar community”⁸⁶.

97. As part of its campaign against the recognized leadership of the Crimean Tatar community, the Russian Federation has also subjected prominent individuals to arbitrary harassment. In September 2014, the Russian Federal Security Service (“FSB”) carried out a wave of unjustified searches of the homes of *Mejlis* members and the offices of Tatar institutions⁸⁷. Russian authorities have continued to search the houses of *Mejlis* members and regional chairmen in a pattern of harassment. On 11 October 2016, Suleyman Kadyrov, a member of the regional *Mejlis* in Feodosia, was arrested and charged with publicly calling for actions aimed at violating the territorial integrity of the Russian Federation. His apparent crime was a simple, true statement: “Crimea is Ukraine.”⁸⁸

98. The Russian Federation’s efforts to stifle the political and cultural rights of the Crimean Tatar community culminated in the outright ban of the *Mejlis*. The *Mejlis* is a traditional organ of the Crimean Tatar people, and — along with the *Kuraltai*, which elects the *Mejlis* members — is considered by the community to be its legitimate representative institution⁸⁹. On 15 February 2016, the so-called prosecutor of Crimea filed a petition accusing the *Mejlis* of disrupting the territorial integrity of the Russian Federation (i.e., refusing to accept the illegal annexation)⁹⁰. On 26 April, the so-called Supreme Court of Crimea declared the *Mejlis* an “extremist organization” and banned its activities⁹¹. Despite international condemnation, the Supreme Court of the Russian Federation upheld the ban on 29 September 2016. In addition to prohibiting the *Mejlis*’ public activity and use of bank accounts, the decision exposed approximately 2,500 members of the national and local *Mejlis* bodies to criminal liability, facing up to eight years in prison, simply for belonging to an “extremist” organization⁹². This ban has been enforced against eight members of the *Mejlis*, who face fines for holding an “illegal meeting” at the home of Mr. Umerov⁹³. Ironically, at the same time the Russian Federation has cynically invoked “extremism” to justify its policy of ethnic Russian dominance in Crimea, it has itself been financing acts of terrorism in eastern Ukraine.

⁸⁶ See Organization for Security and Co-operation in Europe, “Press Release: Parliamentary Assembly Human Rights Chair Calls for Release of Crimean Tatar Leader Umerov” (27 August 2016); Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 May-15 August 2016), para. 178; Human Rights Watch, *Crimean Tatar Activist Confined in Psychiatric Hospital* (26 August 2016).

⁸⁷ See Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 September 2014), para. 156; *ibid.* (15 November 2014), para. 218; Organization for Security and Co-operation in Europe, “Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)” (17 September 2015), para. 232.

⁸⁸ Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 August-15 November 2016), para. 159.

⁸⁹ *Ibid.*, para. 169.

⁹⁰ *Ibid.* (16 February-15 May 2016), para. 186.

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ See Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 August-15 November 2016), para. 168.

Figure M

Masked Russian security forces raiding the *Mejlis* in 2014⁹⁴

99. The international community has strongly condemned the Russian Federation's attack on the Crimean Tatars' leading political and cultural institution. United Nations human rights monitors observed that the treatment of the *Mejlis* could be considered "a collective punishment against the Crimean Tatar community"⁹⁵. The United Nations General Assembly has likewise expressed "serious concern" at the decision to ban the *Mejlis*, and called upon the Russian Federation to immediately revoke and repeal this decision⁹⁶. By suppressing and then dissolving the Tatar institution that has led the community in its return from exile, the Russian Federation has reopened the deep historic wounds caused by previous discrimination against and maltreatment of the Tatars under the Soviet Union.

(b) *Suppression of culturally-significant gatherings*

100. Together with its assault on Tatar institutions and leaders, the Russian occupation régime has sought to stamp out celebrations and commemorations central to Crimean Tatar culture. Remembrance of the *Sürgün* remains central to Crimean Tatar identity. Yet within three months of the purported annexation, occupation authorities thwarted attempts to mark the 70th anniversary of the Soviet deportation. On 16 May 2014, just two days before the anniversary, the so-called Prime Minister of Crimea abruptly prohibited mass activities for the next

⁹⁴ *BBC News*, "Russia Must Boost Crimea Forces, Says Defence Minister" (16 September 2014).

⁹⁵ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 February-15 May 2016), para. 188.

⁹⁶ United Nations General Assembly resolution 71/205, UN doc. A/RES/71/205, "Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol" (Ukraine) (19 December 2016).

three weeks. Russian authorities then used riot police, military vehicles, and helicopters to intimidate gatherings of Crimean Tatars⁹⁷.

101. A few months later, Russian occupation authorities took similar steps to restrict the Crimean Tatar community's usual commemoration of International Human Rights Day, on 10 December. Before the occupation, the Crimean Tatar community had marked Human Rights Day with rallies in Lenin Square in Simferopol. Russian authorities, however, blocked the community from carrying on this tradition. Permits were denied, prosecutors sent letters to Crimean Tatar activists warning against unsanctioned gatherings, and Russian security forces surrounded the city centre⁹⁸.

102. The Russian Federation continued this practice in 2015, and barred commemoration of other culturally significant events as well. On 18 February 2015, for example, Bakhchisaray authorities prohibited the local *Mejlis* from carrying out a rally commemorating the 97th anniversary of the death of Noman Çelebichan, an important figure in Crimean Tatar history⁹⁹. In June 2015, the *Mejlis'* application to celebrate Crimean Tatar flag day was also rejected¹⁰⁰. This ongoing and widespread action to bar Crimean Tatars from holding such gatherings reflects a pattern of oppression and punishment against this ethnic minority community and its culture.

(c) *Disappearance and murder*

103. The Russian occupation régime has further persecuted the Crimean Tatar community by instigating, or at least tolerating and encouraging, a pattern of disappearances and murders. Numerous international observers have reported this pattern¹⁰¹.

⁹⁷ See Organization for Security and Co-operation in Europe, "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)" (17 September 2015), paras. 132, 252; Amnesty International Public Statement, *Harassment and Violence against Crimean Tatars by State and Non-State Actors* (23 May 2014).

⁹⁸ See Sergey Zayets *et al.*, "The Fear Peninsula: Chronicle of Occupation and Violation of Human Rights in Crimea (2015)", p. 69.

⁹⁹ See Organization for Security and Co-operation in Europe, "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)" (17 September 2015), para. 251.

¹⁰⁰ See *ibid.*, para. 253.

¹⁰¹ See, e.g., Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 February-15 May 2016); United Nations Human Rights Council, "Report of the Special Rapporteur on Minority Issues on Her Mission to Ukraine (7-14 April 2014)", UN doc. A/HRC/28/64/Add.1 (26 August 2014); Organization for Security and Co-operation in Europe, "Human Rights Assessment Mission in Ukraine", *Human Rights and Minority Rights Situation* (12 May 2014); United Nations General Assembly resolution 71/205, UN doc. A/RES/71/205, "Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol" (Ukraine) (19 December 2016).

104. The case of Mr. Ametov, noted above, is an important example. Despite the fact that Mr. Ametov's abduction was videotaped, the Russian Federation has made no progress investigating it after more than two years¹⁰².

105. A number of other Crimean Tatar individuals also disappeared around this time, including Timur Shaimardanov. Mr. Shaimardanov was a leader of a local activist group, and disappeared on 25 May 2014 — one day after speaking out about another disappearance. Russian occupation authorities failed to even open an investigation into Mr. Shaimardanov's disappearance until July 2014, and he has not been found¹⁰³.

106. This pattern has continued. On 24 May 2016, Ervin Ibragimov, a member of the Coordination Council of the World Congress of Crimean Tatars and the Bakhchisaray regional *Mejlis*, disappeared. Video footage from a nearby shop shows a group of men stopping Mr. Ibragimov's car, apprehending him, forcing him into a van, and driving away¹⁰⁴. Mr. Ibragimov has not been found, but one week later, his employment record book and passport were found near a bar. When Mr. Ibragimov's father attempted to file a complaint, complete with video of the abduction, the FSB office in Simferopol turned him away. As the European Union has stated, the disappearance of Mr. Ibragimov is "regrettably only one of the most recent examples", and part of a "brutal" "persecution of Crimean Tatars"¹⁰⁵.

(d) *Arbitrary searches and detention*

107. Russian authorities have also targeted Crimean Tatars for detentions and searches, in both public spaces and their own homes. For example, on 28 August 2014, Russian police searched the home of a family in Bakhchisaray; they purportedly were searching for drugs and weapons, but instead confiscated books. Russian authorities have rounded up large groups of Tatars at public markets and cafes, targeting people with non-Slavic appearance. On 12 October 2016, the Russian FSB forcefully broke into six Crimean Tatar houses, conducting searches in the presence of children, and confiscating religious literature¹⁰⁶.

¹⁰² See Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 February-15 May 2016), para. 180; Amnesty International Public Statement, *Harassment and Violence against Crimean Tatars by State and Non-State Actors* (23 May 2014).

¹⁰³ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 May-15 August 2015), para. 171; Human Rights Watch, *Crimea: Enforced Disappearances* (7 October 2014).

¹⁰⁴ See Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 May-15 August 2016), para. 154; Amnesty International, *URGENT ACTION: Crimean Tatar Activist Forcibly Disappeared* (26 May 2016).

¹⁰⁵ OSCE Permanent Council, "EU Statement on 'Russia's Ongoing Aggression against Ukraine and Illegal Occupation of Crimea'", No. 1106, PC.DEL/945/16 (24 June 2016).

¹⁰⁶ See Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 August-15 November 2016), para. 165; *ibid.* (16 May-15 August 2016), para. 179; *ibid.* (16 September 2014), para. 153.

108. United Nations human rights monitors noted in 2016 that they were “increasingly worried about the growing number of large-scale ‘police’ actions conducted with the apparent intention to harass and intimidate Crimean Tatars and other Muslim believers”¹⁰⁷. The United Nations further reported that the “series of police actions conducted since the beginning of 2016 seem to disproportionately target members of the Crimean Tatar community”¹⁰⁸.

(e) *Media restrictions and harassment*

109. As part of its general crackdown on the Crimean Tatar community, the Russian Federation has restricted the activities of Tatar media, including by rejecting registrations and raiding and otherwise harassing media outlets.

110. The Russian Federation has required all media outlets to re-register with occupation authorities, but then blocked specific ones — numerous Tatar outlets in particular — from re-registering, pursuant to a policy of blacklisting disfavoured media¹⁰⁹. By 2015, ATR was the last independent television station serving the Crimean Tatar population. On 26 January 2015, masked members of the FSB raided the ATR facility in Simferopol¹¹⁰. ATR was then denied registration in April 2015. Continuing into 2016, Crimean Tatar journalists have been threatened with prosecution for “extremist” views — as United Nations human rights monitors reported, the Deputy Director of ATR was warned about “her criticism of the arrests of Crimean Tatars on social media”¹¹¹.

(f) *Suppression of Tatar-language education*

111. Finally, the Russian Federation has attacked the Crimean Tatar community’s right to educate their children in their own language. Russian authorities have stopped the training of teachers of the Crimean Tatar language and literature, and have also blocked the hiring of such teachers from Turkey, making it increasingly difficult to meet the educational needs of the Crimean Tatar People¹¹².

¹⁰⁷ Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 February-15 May 2016), para. 183.

¹⁰⁸ *Ibid.*, (16 May-15 August 2016), para. 179.

¹⁰⁹ See Council of Europe Media Freedom Alert, *Forced Closure of Crimean Tatar-Language Media Outlets* (1 April 2015); *BBC News*, Vitaliy Shevchenko “Crimean Tatar Media ‘Silenced by Russia’” (1 April 2015).

¹¹⁰ See Organization for Security and Co-operation in Europe, *Raid on ATR Television Channel in Crimea Unacceptable, a Clear Intrusion of the Media’s Independence, Says Mijatović* (26 January 2015).

¹¹¹ Office of the United Nations High Commissioner for Human Rights, “Report on the Human Rights Situation in Ukraine” (16 May-15 August 2016), para. 169.

¹¹² See Organization for Security and Co-operation in Europe, “Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)” (17 September 2015), paras. 192, 291; European Parliament Policy Department, *The Situation of National Minorities in Crimea following Its Annexation by Russia* (April 2016), pp. 22-23, 26.

The shortage of teachers has been exacerbated by a shortage of textbooks. The occupation authorities banned textbooks that followed the Ukrainian curriculum, yet did not provide Crimean Tatar schools with approved textbooks¹¹³. Moreover, since the occupation began, the number of hours dedicated to Crimean Tatar language has decreased significantly, with the language no longer taught as a subject in the senior classes of secondary schools.

112. The Russian Federation has also interfered with Crimean Tatar education more directly, conducting repeated raids of the community's educational institutions. Between June and September 2014, three Tatar religious schools in Simferopol were searched by Russian authorities¹¹⁴. By mid-September 2014, Russian authorities had searched eight out of ten Tatar religious schools belonging to the Spiritual Directorate of the Muslims of Crimea. Searches of educational institutions (and other locations) for so-called "extremist" literature have been carried out "mainly among the Crimean Tatar population"¹¹⁵.

113. In sum, the Russian Federation has engaged in multiple acts of racial discrimination in Crimea, squarely targeted against the ethnic Tatar population.

3. *Discrimination against the ethnic Ukrainian community in Crimea*

114. The Russian Federation has applied its policy of ethnic Russian dominance in Crimea — and persecution of non-Russian cultures — to assault the ethnic Ukrainian community¹¹⁶. The Russian occupation authorities have sought to restrict education in the Ukrainian language, criminalized expressions of connection to Ukraine, and harassed ethnic Ukrainian media.

(a) *Suppression of Ukrainian-language education*

115. The Russian Federation is causing Ukrainian-language education in Crimea to "disappear", through a campaign of "pressure on school administrators, teachers, parents and children"¹¹⁷. Prior to the occupation, both ethnic Russians and ethnic Ukrainians had opportunities to learn and study in their native languages. The Russian language, along with the languages of other national minorities in Ukraine, enjoys guarantees of free development, use, and protection under Ukraine's Constitution, both within Crimea and elsewhere in Ukraine. Since 2014, by contrast, the Russian occupation authorities have systematically undermined the linguistic and educational rights of the ethnic Ukrainian commu-

¹¹³ See Organization for Security and Co-operation in Europe, "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)" (17 September 2015), para. 290.

¹¹⁴ *Ibid.*, paras. 242-243.

¹¹⁵ See Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 September 2014), para. 153; Human Rights Watch, *Rights in Retreat* (November 2014), p. 16.

¹¹⁶ See, e.g., United Nations General Assembly resolution 71/205, UN doc. A/RES/71/205, "Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol" (Ukraine) (19 December 2016).

¹¹⁷ See Organization for Security and Co-operation in Europe, "Tbilisi Declaration and Resolutions Adopted by the OSCE Parliamentary Assembly at the Twenty-Fifth Annual Session" (1-5 July 2016).

nity in Crimea. For example, the Russian Federation has deliberately reduced the supply of Ukrainian-language teachers. In August 2014, the Ministry of Education directed 276 Ukrainian language and literature teachers to be re-trained to teach Russian language and literature¹¹⁸. In September 2014, the Russian authorities closed a Ukrainian language department at Tauride National University which had previously graduated around 50 Ukrainian-language teachers per year. The Russian authorities have also limited the availability of Ukrainian-language education by removing all textbooks and educational materials issued by Ukraine's Ministry of Education, and purging Ukrainian-language books from schools and public libraries. Reports have even emerged of the burning of books in the Ukrainian language or about Ukraine.

116. Russian officials have resorted to even more heavy-handed tactics to prevent Ukrainian-language education. In Yalta, for example, the Russian Federation eliminated such education in all but one school. In at least one school, authorities dispersed a Ukrainian-speaking group of children across many classes to prevent them from remaining in contact as a Ukrainian-language group¹¹⁹.

117. The resulting decline in Ukrainian-language education has been precipitous. In the 2013-2014 school year, general education in the Ukrainian language was provided to 12,694 children¹²⁰. But in the 2014-2015 school year, the first of the occupation, the number of children receiving Ukrainian-language education plummeted to 2,154¹²¹. In the 2015-2016 school year, that number was cut in half, reduced to less than 1,000 students¹²². As the United Nations reported in December 2016, of the seven Ukrainian-language educational institutions that existed in Crimea until 2014, only *one* remains in operation, and even this school ceased instruction in Ukrainian in the first and second grades this year¹²³.

118. These repeated acts of racial discrimination serve an overarching goal of cultural erasure. As the OSCE has reported, the Russian Federation's attempts at "eradication of education in and of the Ukrainian language" is part of a broader campaign to suppress the "cultural, religious and other manifestations of the

¹¹⁸ Organization for Security and Co-operation in Europe, "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)" (17 September 2015), para. 191

¹¹⁹ *Ibid.*, para. 194.

¹²⁰ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 August-15 November 2015), para. 157; see also Permanent Delegation of the Russian Federation to UNESCO, "Information on the Situation in the Republic of Crimea (the Russian Federation) within the Scope of UNESCO Competence as of April 8, 2015" (14 April 2015).

¹²¹ Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 August-15 November 2015), para. 157. The Russian Federation has admitted this decrease, and in fact reported a lower number (1,990) for the 2014-2015 school year. See Permanent Delegation of the Russian Federation to UNESCO, "Information on the Situation in the Republic of Crimea (the Russian Federation) within the Scope of UNESCO Competence as of April 8, 2015" (14 April 2015).

¹²² Office of the United Nations High Commissioner for Human Rights, "Report on the Human Rights Situation in Ukraine" (16 August-15 November 2015), para. 157.

¹²³ *Ibid.*, para. 180.

Ukrainian identity”, in pursuit of “the policy of russification in occupied Crimea”¹²⁴. Russian authorities are attempting not just to dominate Crimea, but to permanently erase the distinct ethnic Ukrainian identity of many inhabitants of Crimea, beginning with an attack on the language they speak, and their ability to impart that language to their children.

(b) *Suppression of culturally-significant gatherings*

119. As with its treatment of the Crimean Tatars, the Russian Federation has furthered its policy of cultural erasure by restricting gatherings in celebration of ethnic Ukrainians’ cultural heritage. For example, in March 2015, authorities refused the application of the Ukrainian Cultural Centre to hold a gathering in a central location in Simferopol to commemorate the 201st birthday of the renowned Ukrainian poet Taras Shevchenko¹²⁵.

120. The event was relegated to a peripheral park, and Russian officials thereafter retaliated against ethnic Ukrainians who participated. Specifically, three participants were arrested for carrying a Ukrainian flag inscribed with the (accurate) statement that Crimea remains a part of Ukraine, which the Russian Federation considers criminal “extremist” activity. The alleged organizer of the event was fired from his job as a school teacher in Simferopol¹²⁶.

(c) *Media restrictions and harassment*

121. The Russian Federation has also engaged in a pattern of discriminatory restrictions on ethnic Ukrainian media entities in Crimea. For example, Russian occupation authorities have repeatedly harassed and detained writers and editors of the Centre for Journalist Investigations, a media organization associated with ethnic Ukrainians in Crimea. In March 2015, Centre writer Natalia Kokorina was ordered out of her house, which was searched, and she was detained and interrogated by the FSB for six hours¹²⁷. The same day, authorities raided the home of the parents of another Centre editor, Anna Andriyevskaya, and charged her with the crime of “anti-state activities” for an article she had written. The Russian authorities have continued to harass Ms Andriyevskaya and others in 2016, by, *inter alia*, including her on a list of approximately 6,000 “terrorists and extremists”¹²⁸.

122. Again, these are not isolated examples. For example, the Russian authorities have attempted to exert pressure on a journalist with the Ukrainian news portal *Sobit'ya Kryma* by harassing his mother, and they searched the apartment of a

¹²⁴ Organization for Security and Co-operation in Europe, “Tbilisi Declaration and Resolutions Adopted by the OSCE Parliamentary Assembly at the Twenty-Fifth Annual Session” (1-5 July 2016), p. 42.

¹²⁵ Organization for Security and Co-operation in Europe, “Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)” (17 September 2015), para. 140.

¹²⁶ *Ibid.*

¹²⁷ Council of Europe Media Freedom Alert, *Harassment of Journalists Natalya Kokorina and Anna Andriyevska in Crimea, Ukraine by Russian Officials* (2 April 2015).

¹²⁸ Organization for Security and Co-operation in Europe, “Russia’s Labeling of Journalists as Terrorists a Threat to Media Freedom” (12 July 2016).

Ukrainian independent blogger for criticizing the Russian authorities¹²⁹. Since the start of the occupation, the *Krymska Svitlytsya*, the only Ukrainian-language newspaper in Crimea and an institution that has existed since Ukrainian independence, has been banned¹³⁰.

123. Through all of these efforts, the Russian Federation has pursued a campaign of systematic racial discrimination designed to promote and perpetuate Russian dominance by erasing the cultural identity of non-Russian ethnic communities.

IV. LEGAL GROUNDS FOR UKRAINE'S CLAIMS

124. Ukraine claims that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, including the *de facto* authorities administering the illegal Russian occupation of Crimea, and through other agents acting on its instructions or under its direction and control, is responsible for serious violations of the Terrorism Financing Convention and the CERD.

A. Violations of the Terrorism Financing Convention

125. Article 18 of the Terrorism Financing Convention requires States to co-operate in the prevention of the financing of terrorism. Yet in defiance of its international obligations, the Russian Federation actively finances terrorist acts on the territory of Ukraine.

126. Acts of terrorism within the meaning of the Terrorism Financing Convention are defined in Article 2 (1). Numerous attacks perpetrated by illegal armed groups supported by the Russian Federation, including the DPR, the LPR, and the Kharkiv Partisans, constitute acts of terrorism within the meaning of that provision.

(a) Article 2 (1) (a) of the Terrorism Financing Convention defines acts of terrorism to include any violation of the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (“Montreal Convention”). The devastating attack on Malaysia Airlines Flight MH17, a civilian airliner, violated Article 1 of the Montreal Convention, which prohibits “unlawfully and intentionally . . . destroy[ing] an aircraft in service”. The attack was therefore an act of terrorism under Article 2 (1) (a) of the Terrorism Financing Convention.

(b) Article 2 (1) (b) of the Terrorism Financing Convention further defines acts of terrorism to include any “act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act”. Under the Con-

¹²⁹ Organization for Security and Co-operation in Europe, “OSCE Representative Mourns Death of Russian Journalist; Denounces New Cases of Media Freedom Violations in Ukraine” (17 June 2014).

¹³⁰ Organization for Security and Co-operation in Europe, “Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)” (17 September 2015), para. 257.

vention and related principles of international law, attacks that directly target civilians, or are aimed indiscriminately at civilian areas, constitute acts intended to cause death or serious bodily injury to civilians. The attack on Flight MH17, an aircraft exhibiting all ordinary indicia of civilian traffic, is an act of terrorism under Article 2 (1) (b), in addition to Article 2 (1) (a). The targeted or indiscriminate shelling attacks on civilians in Volnovakha, Mariupol, and Kramatorsk, the bombings throughout the city of Kharkiv, and similar attacks perpetrated by Russian-backed illegal armed groups in Ukraine are also acts of terrorism under Article 2 (1) (b) of the Terrorism Financing Convention.

127. Article 2 of the Terrorism Financing Convention further defines a prohibited act of terrorist financing as “directly or indirectly, unlawfully and wilfully, provid[ing] or collect[ing] funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out” acts of terrorism. Numerous acts of the Russian Federation, its State organs, agents, and persons and entities exercising governmental authority, in providing material support to illegal armed groups committing terrorism in eastern Ukraine, constitute the financing of terrorism within the meaning of the Convention.

- (a) Article 1 (1) of the Terrorism Financing Convention defines “funds” broadly to include “assets of every kind”. The Russian Federation provides entities and individuals responsible for terrorist acts in Ukraine with direct financial assistance, as well as in-kind contributions including heavy weaponry and training.
- (b) The Russian Federation supplies these weapons and other forms of assistance to its proxies in eastern Ukraine with the intention or knowledge that they will be used, in full or in part, to conduct acts of terrorism. From the beginning of the hostilities in eastern Ukraine, it was apparent that these groups acted with utter contempt for civilian life, resulting in numerous atrocities. Under the Terrorism Financing Convention, the Russian Federation is obliged to block and pursue these organizations. Instead, the Russian Federation’s decision to continue funding these organizations makes clear that it intentionally and knowingly supports terrorism, in service of the Russian Government’s objective of intimidating the Ukrainian population and coercing the decisions of Ukraine’s Government.

128. Under Article 18, the Russian Federation is required to “co-operate in the prevention” of terrorism financing offenses as defined by Article 2. That obligation includes “taking all practical measures . . . to prevent and counter preparations in [its] territories for the commission of those offenses”. Far from preventing the financing of terrorism, the Russian Federation has financed terrorism as a matter of State policy. These actions are blatant violations of Article 18 of the Terrorism Financing Convention.

129. The Russian Federation is also responsible for failing to co-operate with Ukraine to investigate, identify, and prevent terrorism financing offenses as defined by Article 2, committed by numerous Russian officials, organizations, and citizens.

- (a) Article 8 (1) of the Terrorism Financing Convention provides that “[e]ach State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 2”. Illegal fundraising on the territory of the Russian Federation for entities and individuals responsible for terrorist acts in Ukraine, often conducted through State-owned financial institutions, is rampant. Despite widespread reporting and repeated protests by Ukraine, the Russian Federation has failed to honour its obligations to identify, detect, freeze, and seize such funds.
- (b) Article 9 (1) of the Terrorism Financing Convention provides that “[u]pon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information”. Articles 10 and 11 require a State party to extradite or prosecute offenders. The Russian Federation has repeatedly refused to investigate, prosecute, or extradite offenders within its territory brought to its attention by Ukraine.
- (c) Article 12 (1) of the Terrorism Financing Convention provides that “States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings”. Ukraine has brought to the Russian Federation’s attention numerous criminal investigations for which it requested assistance, and the Russian Federation has failed to investigate or adequately respond.
- (d) Article 18 (1) of the Terrorism Financing Convention provides that “States Parties shall co-operate in the prevention of the offences set forth in article 2 by taking all practicable measures . . . to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories.” In addition to being responsible for direct acts of terrorist financing in violation of this article, the Russian Federation has indirectly contributed to the cause of terrorism by failing to take all practicable measures to prevent the financing of terrorism by public and private actors on the territory of the Russian Federation.

130. By acceding to the Terrorism Financing Convention, the Russian Federation undertook to co-operate in the prevention of terrorist financing, and to assist in the investigation and prosecution of terrorist financing. Instead, the Russian Federation has turned the Convention on its head, committing acts of terrorist financing, refusing to halt the financing of terrorism from its territory, obstructing investigations, and failing to co-operate and assist Ukraine in good faith as required by international law.

B. Violations of the CERD

131. Russian authorities are pursuing on the Crimean peninsula a policy of cultural erasure through a pattern of discriminatory actions, treating groups that are

not ethnic Russian as threats to the régime whose identity and culture must be suppressed.

132. Article 2 of the CERD commits States Parties to pursue “a policy of eliminating racial discrimination in all its forms”, and to “engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation”. In addition to this overarching obligation, the CERD provides, *inter alia*, that:

- (a) States Parties must “prevent, prohibit and eradicate” “racial segregation and apartheid” (Article 3);
- (b) States Parties “[s]hall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination” (Article 4);
- (c) States Parties must “guarantee the right to everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights” (Article 5):
 - (i) “The right to equal treatment before tribunals and all other organs administering justice” (Article 5 (a));
 - (ii) “The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution” (Article 5 (b));
 - (iii) “Political rights, in particular the right to participate in elections — to vote and to stand for election — on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service” (Article 5 (c));
 - (iv) “The right to freedom of movement and residence within the border of the State” (Article 5 (d) (i));
 - (v) “The right to leave any country, including one’s own, and to return to one’s country” (Article 5 (d) (ii));
 - (vi) “The right to freedom of thought, conscience and religion” (Article 5 (d) (vii));
 - (vii) “The right to freedom of opinion and expression” (Article 5 (d) (viii));
 - (viii) “The right to freedom of peaceful assembly and association” (Article 5 (d) (ix));
 - (ix) “The right to education and training” (Article 5 (e) (v)); and
 - (x) “The right to equal participation cultural activities” (Article 5 (e) (vi));
- (d) States Parties must “assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention” (Article 6).

The Russian Federation has done none of the above.

133. The Russian Federation’s policy of cultural erasure in Crimea, targeting in particular the Crimean Tatar and ethnic Ukrainian communities, violates Articles 2, 3, 4, 5, and 6 of the CERD. In furtherance of this policy, and beginning with its illegal invasion and referendum, the Russian Federation has engaged in a wide-

spread pattern of discriminatory acts, each of which is an independent violation of the CERD, including:

- (a) holding an illegal referendum in an atmosphere of violence and intimidation against non-Russian ethnic groups, without any effort to seek a consensual and inclusive solution protecting those groups, and as an initial step toward depriving these communities of the protection of Ukrainian law and subjecting them to a régime of Russian dominance;
- (b) brutally suppressing the political and cultural expression of Crimean Tatar identity, by persecuting the community's leaders and banning its central institution, the *Mejlis* of the Crimean Tatar People;
- (c) preventing Crimean Tatars from gathering in celebration and commemoration of their culture, including to mark the anniversary of Stalin's ethnic cleansing of Tatars from the peninsula;
- (d) perpetrating and tolerating a campaign of disappearances and murder targeting Crimean Tatars;
- (e) harassing the Crimean Tatar community by disproportionately subjecting it to a régime of arbitrary searches and detention;
- (f) silencing Crimean Tatar voices in the media;
- (g) suppressing Crimean Tatar language education and educational institutions;
- (h) suppressing ethnic Ukrainians' rights to education in the Ukrainian language;
- (i) preventing ethnic Ukrainians from gathering in celebration and commemoration of their culture; and
- (j) silencing ethnic Ukrainian voices in the media.

V. RELIEF SOUGHT

A. *Relief Sought under the Terrorism Financing Convention*

134. Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, and through other agents acting on its instructions or under its direction and control, has violated its obligations under the Terrorism Financing Convention by:

- (a) supplying funds, including in-kind contributions of weapons and training, to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, in violation of Article 18;
- (b) failing to take appropriate measures to detect, freeze, and seize funds used to assist illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, in violation of Articles 8 and 18;
- (c) failing to investigate, prosecute, or extradite perpetrators of the financing of terrorism found within its territory, in violation of Articles 9, 10, 11, and 18;

- (d) failing to provide Ukraine with the greatest measure of assistance in connection with criminal investigations of the financing of terrorism, in violation of Articles 12 and 18; and
- (e) failing to take all practicable measures to prevent and counter acts of financing of terrorism committed by Russian public and private actors, in violation of Article 18.

135. Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation bears international responsibility, by virtue of its sponsorship of terrorism and failure to prevent the financing of terrorism under the Convention, for the acts of terrorism committed by its proxies in Ukraine, including:

- (a) the shoot-down of Malaysia Airlines Flight MH17;
- (b) the shelling of civilians, including in Volnovakha, Mariupol, and Kramatorsk; and
- (c) the bombing of civilians, including in Kharkiv.

136. Ukraine respectfully requests the Court to order the Russian Federation to comply with its obligations under the Terrorism Financing Convention, including that the Russian Federation:

- (a) immediately and unconditionally cease and desist from all support, including the provision of money, weapons, and training, to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals;
- (b) immediately make all efforts to ensure that all weaponry provided to such armed groups is withdrawn from Ukraine;
- (c) immediately exercise appropriate control over its border to prevent further acts of financing of terrorism, including the supply of weapons, from the territory of the Russian Federation to the territory of Ukraine;
- (d) immediately stop the movement of money, weapons, and all other assets from the territory of the Russian Federation and occupied Crimea to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, including by freezing all bank accounts used to support such groups;
- (e) immediately prevent all Russian officials from financing terrorism in Ukraine, including Sergei Shoigu, Minister of Defence of the Russian Federation; Vladimir Zhirinovskiy, Vice-Chairman of the State Duma; Sergei Mironov, member of the State Duma; and Gennadiy Zyuganov, member of the State Duma, and initiate prosecution against these and other actors responsible for financing terrorism;
- (f) immediately provide full co-operation to Ukraine in all pending and future requests for assistance in the investigation and interdiction of the financing of terrorism relating to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals;
- (g) make full reparation for the shoot-down of Malaysia Airlines Flight MH17;
- (h) make full reparation for the shelling of civilians in Volnovakha;
- (i) make full reparation for the shelling of civilians in Mariupol;

- (j) make full reparation for the shelling of civilians in Kramatorsk;
- (k) make full reparation for the bombing of civilians in Kharkiv; and
- (l) make full reparation for all other acts of terrorism the Russian Federation has caused, facilitated, or supported through its financing of terrorism, and failure to prevent and investigate the financing of terrorism.

B. Relief Sought under the CERD

137. Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, including the *de facto* authorities administering the illegal Russian occupation of Crimea, and through other agents acting on its instructions or under its direction and control, has violated its obligations under the CERD by:

- (a) systematically discriminating against and mistreating the Crimean Tatar 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 régime;
- (b) holding an illegal referendum in an atmosphere of violence and intimidation against non-Russian ethnic groups, without any effort to seek a consensual and inclusive solution protecting those groups, and as an initial step toward depriving these communities of the protection of Ukrainian law and subjecting them to a régime of Russian dominance;
- (c) 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;
- (d) preventing Crimean Tatars from gathering to celebrate and commemorate important cultural events;
- (e) perpetrating and tolerating a campaign of disappearances and murders of Crimean Tatars;
- (f) harassing the Crimean Tatar community with an arbitrary régime of searches and detention;
- (g) silencing Crimean Tatar media;
- (h) suppressing Crimean Tatar language education and the community's educational institutions;
- (i) suppressing Ukrainian language education relied on by ethnic Ukrainians;
- (j) preventing ethnic Ukrainians from gathering to celebrate and commemorate important cultural events; and
- (k) silencing ethnic Ukrainian media.

138. Ukraine respectfully requests the Court to order the Russian Federation to comply with its obligations under the CERD, including:

- (a) immediately cease and desist from the policy of cultural erasure and take all necessary and appropriate measures to guarantee the full and equal protection of the law to all groups in Russian-occupied Crimea, including Crimean Tatars and ethnic Ukrainians;

- (b) immediately restore the rights of the *Mejlis* of the Crimean Tatar People and of Crimean Tatar leaders in Russian-occupied Crimea;
- (c) immediately restore the rights of the Crimean Tatar People in Russian-occupied Crimea to engage in cultural gatherings, including the annual commemoration of the *Sürgün*;
- (d) immediately take all necessary and appropriate measures to end the disappearance and murder of Crimean Tatars in Russian-occupied Crimea, and to fully and adequately investigate the disappearances of Reshat Ametov, Timur Shaimardanov, Ervin Ibragimov, and all other victims;
- (e) immediately take all necessary and appropriate measures to end unjustified and disproportionate searches and detentions of Crimean Tatars in Russian-occupied Crimea;
- (f) immediately restore licenses and take all other necessary and appropriate measures to permit Crimean Tatar media outlets to resume operations in Russian-occupied Crimea;
- (g) immediately cease interference with Crimean Tatar education and take all necessary and appropriate measures to restore education in the Crimean Tatar language in Russian-occupied Crimea;
- (h) immediately cease interference with ethnic Ukrainian education and take all necessary and appropriate measures to restore education in the Ukrainian language in Russian-occupied Crimea;
- (i) immediately restore the rights of ethnic Ukrainians to engage in cultural gatherings in Russian-occupied Crimea;
- (j) immediately take all necessary and appropriate measures to permit the free operation of ethnic Ukrainian media in Russian-occupied Crimea; and
- (k) make full reparation for all victims of the Russian Federation's policy and pattern of cultural erasure through discrimination in Russian-occupied Crimea.

VI. JUDGE *AD HOC*

139. In accordance with the provisions of Article 31 (2) of the Statute of the Court, and Article 35 (1) of the Rules of the Court, Ukraine declares its intention to exercise its right to choose a judge *ad hoc*.

VII. RESERVATION OF RIGHTS

140. Ukraine reserves the right to supplement and/or amend this Application, as well as the legal grounds invoked and the relief requested, as may be necessary to preserve and vindicate its rights under the Terrorism Financing Convention and the CERD.

VIII. APPOINTMENT OF AGENT AND CO-AGENT

141. Ukraine hereby designates as its Agent Ms Olena Zerkal, Deputy Foreign Minister of Ukraine.

142. Ukraine hereby designates as its Co-Agent Mr. Vsevolod Chentsov, Ministry of Foreign Affairs of Ukraine, Director-General for the European Union.

143. Pursuant to Article 40 (1) of the Rules of the Court, communications relating to this case should be sent to:

Ms Olena Zerkal
Deputy Foreign Minister of Ukraine
c/o Embassy of Ukraine in the Kingdom of the Netherlands
Zeestraat 78
2518 AD The Hague
Kingdom of the Netherlands

(Signed) Pavlo KLIMKIN,
Minister of Foreign Affairs of Ukraine.

(Signed) Olena ZERKAL,
Deputy Foreign Minister of Ukraine
Agent of Ukraine.
