INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING
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)

VOLUME II OF THE ANNEXES TO THE REPLY

SUBMITTED BY UKRAINE

29 APRIL 2022

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Annex 37

Signed Declaration of Artem Mineev, Witness Interrogation Protocol (16 November 2014)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Signed Declaration
of a Witness Interrogation

the city of Kharkiv 16 November 2014

1. Last, First, and Middle Name: Mineev Artem Sergiovych
2. Date and Place of Birth 9 July 1984, the city of Kharkiv

[. . .]

[*signature*]

1

[. . .]

Approximately at the end of September - beginning of October 2014, my aunt (my mother's sister) - Kovtun (birth name - Kleva) Marina Anatolyevna, born on June 9, 1967, contacted me with a request to use my garage. M.A. Kovtun told me that she needed garage to store "trash"; she did not say what exactly it would be. Per her request, I gave her keys and I did not check the garage. A few days later, M.A. Kovtun handed me two new keys and said that she had changed the locks in the garage because they were old. I took the keys from M.A. Kovtun, but I did not check the garage itself and the integrity of the locks.

[. . .]

On 16 November 2014, the SSU officers called me and asked me to give some explanations about my aunt - M.A. Kovtun, as well about my garage. After my interview with the SSU when I learned about illegal activities of M.A. Kovtun, I voluntarily gave my consent to the SSU officers to conduct a search in my garage to seize illegal items that my aunt kept there. During the search, AK-74 assault rifles (one with a grenade launcher, the other two without), anti-tank mines, grenades, and 5.45 caliber cartridges were found. I was very shocked with items found in my garage, because I had nothing to do with them. According to M.A. Kovtun, the weapons and ammunition belong to her, and she placed them in the garage for storage.

Annex 38

Signed Declaration of Igor Boiko, Suspect Interrogation Protocol (22 November 2014)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Signed Declaration
of a Suspect Interrogation

the city of Kharkiv 22 November 2014

1. Last Name	Boiko
2. First Name	Igor
3. Middle Name	Vitiliovych
4. Date and Place of Birth	25 March 1972, the city of Kharkiv

[. . .]

[*signature*]

1

[. . .]

M.M. Sazonov did not introduce the mentioned person, but he said that this man would give me something that I need to deliver to I.P. Umanets who would have to hide it. On my questions what exactly the man would give me, M.M. Sazonov responded that it was "hlopalka [clapper]" and added, "we don't need casualties." He did not clarify who he meant by "we." I understood that he was referring to a sort of "explosive device," but I decided not to clarify this further.

Together with the unknown man, I passed through the park to street Shytalova Dacha and approached a beige car VAZ (2015 or 2017). I do not remember the car's plate number or the region number. The man opened the car and got out from under the front passenger seat a folded plaid bag. When he opened the bag, I saw a green rectangular object approximately 4x10x20 centimeters in size that had a fuse with a ring installed. There was also a small metal object with screw thread that I thought was supposed to be installed into the object.

The man told me that the object could stick as a magnet and for its detonation it is necessary to pull out the pin and it explodes in 5 minutes.

[. . .]

I put the bag in the trunk of my car (or on back passenger seat, I do not remember), got into the car and drove to I.P. Umanets who lives at the address: Dehtiarevskiy region, vil. Beruki, st. Ulianova 11. I do not remember if I called I.P. Umanets (his cell 099-174-40-02) on my way.

I arrived to I.P Umanets around 3:00 – 4:00 p.m. the same day and gave him the "hlopalka [clapper]." I passed to him the words of M.M. Sazonov concerning no casualties and added from myself that it would be better to burry this "hlopalka [clapper]" and forget about it.

I.P. Umanets put the bag with the object on a bed in his summer kitchen and escorted me to my car. We say goodbyes and I left.

Annex 39

Signed Declaration of Sergey Bashlykov, Suspect Interrogation Protocol (16 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

COPY

TRANSCRIPT
Of an interview with a suspect

The city of Kharkiv March 16, 2015

Interview commenced at: 4:10 P.M.
Interview completed at: 6:45 P.M.

Senior Lieutenant of Justice Pidgirny K.O., Senior Investigator of Investigative Department at SBU Field Office in Kharkiv Province, due to the pre-trial investigation in the criminal matter No. 420152200000000115, in the presence of the Defense Counsel Lipchansky V.V., and in compliance with the requirements of Articles 42, 95, 104, 106, 223 and 224 of the Code of Criminal Procedure of Ukraine, has interviewed the following suspect at the office of Investigative Department of SBU Field Office in Kharkiv Province:

1. Last name	**Bashlykov**
2. First name	**Sergiy**
3. Paternal Name	**Oleksandrovych**
4. Date and place of birth	**10.27.1986, Kharkiv**
5. Nationality	**Ukrainian**
6. Citizenship	**Ukraine**
7. Education	**Junior College (graduated from Kharkiv Lyceum of Construction and Roadways in 2005)**
8. Marital status	**single**
9. Place of employment and position	**unemployed**
10. Residence	**10 Dostoyevsky St., Apt. 4, Kharkiv**
11. Criminal record	**no criminal records, according to his own statement**
12. Are you a legislator	**not a legislator**
13. Proof of identity	**Ukrainian passport series MN number 756273 issued on 05.04.2005 by Chervonozavodsky District Office of Kharkiv Municipal Field Office of the Ministry of Internal Affairs of Ukraine in Kharkiv Province**

[. . .]

[. . .]

Question: Do you remember what you were wearing on February 22, 2015 and what Dvornikov V.M. and Tetyutsky V.V. were wearing? When and where did you meet them?

Answer: Yes, I remember how I was dressed on 22.02.2015 and I can also testify what V.N. Dvornikov and V.V. Tetyutsky had on. I can testify as follows. I met V.N. Dvornikov and V.V. Tetyutsky in the Opel car owned by V.V. Tetyutsky when they drove me to O. Maselsky Metro Station. They went in the said car to the Kiev Movie Theater area.

On 22.02.2015, I was dressed in a black coat, which was down approximately to the middle of my hip, black trousers, black shoes, and a black cap. I also had black gloves on my hands. I was wearing the said clothes the entire day including the time when I was at Marshal Zhukov Avenue. Specifically, I was at Yuryev's Park at the time of explosion.

V.N. Dvornikov was also all dressed in black. Specifically, he was wearing a black sport jacket, which was down approximately to his belt, black sport pants, black sneakers, and a black cap. I didn't see any words or labels on V.N. Dvornikov's clothes.

As far as I remember, V.V. Tetyutsky was also dressed in black sport clothes. Specifically, he was wearing a black sport jacket, black sport pants, black sneakers, and a black fabric cap. I didn't see any labels or words on V.V. Tetyutsky's clothes.

Question: Could you clarify how did you get to Marshal Zhukov Metro Station on February 22, 2015, where did you come from, and the time frame when this happened?

Answer: I took a ride from O. Maselsky Metro Station to Marshal Zhukov Metro Station. I went down into the metro at about 12:30 on 22.02.2015 and I went through a turnstile using my own Kharkiv metro magnetic card. I didn't have any bag or backpack with me. I came out Marshal Zhukov Metro Station at approximately 12:45 P.M. I came out of Marshal Zhukov station through the exit near Chashka cafe. Then, I walked up along the sidewalk to a cigarette stall near building No. 3 on Yuryev Boulevard. Afterwards, I went to Kiev Movie Theater.

Question: Please take a look at the video recording of February 22, 2015 made by a video surveillance camera installed in the lobby of O.S. Maselsky Metro Station (the file "Maselsky akp 1 lobb. (at 12.11.08s)"). Do you recognize any people recorded on this video between 12:10 and 12:50 time frame? If yes, who specifically are those people, what are the timestamps on the recording, and what are the features that made you recognize that person?

Answer: I indeed was provided the video record "Maselsky akp 1 lobb. (at 12.11.08s)". According to the timestamp on this image, it is 12:49:21 P.M. on February 22, 2015 and the video shows me walking into the lobby of Maselsky Metro Station. On the image, I am dressed in a black coat, black jeans, and black classical shoes. Upon entering the lobby, I took off my gloves and put them into a coat pocket. After passing through a turnstile, I came down the stairs onto the platform.

Question: Please take a look at the video recording of February 22, 2015 made by video surveillance cameras installed at Marshal Zhukov Metro Station (files: "Zhukov dist. hall (at 12.24.20s.)," "Zhukov bottom of escalator, 3.4. (at 12.24.30s.)," and "Zhukov top of escalator, 1.2. (at 12.24.48s.)). Do you recognize any people recorded on these videos between 12:50 and 13:05 time frame? If yes, who specifically are those people, what are the timestamps on the recording, and what are the features that made you recognize that person?

Answer: I was indeed provided these video records to review them. I also recognize myself on this recording. According to the timestamp on the image, it's 1:03 P.M. on February 22, 2015 (the "Zhukov dist. hall" video). I came out of a train and proceeded to the escalator towards the exit of this metro station.

On the video designated as "Zhukov bottom of escalator 3.4. (at 12.24.30s)," at 1:03:11, I again recognize myself moving up on the escalator towards the exit of the metro station.

On the video designated as "Zhukov top of escalator 1.2. (at 12.24.48s)," at 1:03:20, I recognize myself moving up on the escalator at the lobby entrance of Marshal Zhukov Metro Station, in the direction of the exit.

Question: Please take a look at the video recording of 22.02.2015 made by a video surveillance camera installed at the Digma supermarket (Kharkiv, Ordzhonikidze Ave., file "20150222213000-20150222141711.mp.4"). Do you recognize any people recorded on the said video between 13:20 and 13:25 time frame? If yes, who specifically are those people, what are the timestamps on the recording, and what are the features that made you recognize that person?

Answer: I indeed was indeed provided the video record "20150222130000-20150222141711" to review it. According to the timestamp on this image, it is 1:24 P.M. on February 22, 2015. I recognize the dark blue car Opel Omega owned by Tetyutsky Victor Victorovich, who was at the wheel at that time. Vladimir Nikolaevich Dvornikov gets out of that car through the front passenger door. I recognized him by his appearance (gait and constitution) and clothes. He is dressed in a black jacket, blue jeans, black running shoes, and a black cap.

Question: Please take a look at the video recordings of 22.02.2015 made by a video surveillance camera installed at a parking lot of the Digma supermarket (Kharkiv, Ordzhonikidze Ave., files "2150222130556-20150222133554. mp.4", "20150222133555-20150222134236. mp.4" and "20150222134237-141936. mp.4"). Do you recognize any people recorded on the said videos between 13:25 and 13:50 time frame? If yes, who specifically are those people, what are the timestamps on the recording, and what are the features that made you recognize such person?

Answer: I was indeed provided these video records to review them. According to the timestamp, it is 1:25 P.M. on February 22, 2015. V.N. Dvornikov appears on the left side of the video. He is dressed in a black jacket, blue jeans, and a black cap. I recognized V.N. Dvornikov by his clothes, his specific gait, and constitution. V.N. Dvornikov continues to stand near the Digma supermarket between 1:25 and 1:47 P.M. and then he leaves.

The interview transcript has a photo table with screenshots attached with the following videos: "Maselsky akp 1 lobb. (at 12.11.08s.)," "Zhukov dist. hall (at 12.24.20s.)," "Zhukov bottom of escalator, 3.4. (at 12.24.30s.)," "Zhukova top of escalator, 1.2. (at 12.24.48s.)," "20150222130000-20150222141711," "20150222130556-20150222133554," and "20150222133555-20150222134236"; 7 pages.

[. . .]

[Photo Picture]

Photo: Bashlykov S.O. exits a train at the Marshal Zhukov Metro Station and walks towards the escalator to go outside.

[Photo Picture]

Photo: Bashlykov S.O. is in front of the escalator facing the exit from Marshal Zhukov Metro Station.

[Photo Picture]

[Photo Picture]

Photo: Bashlykov S.O. enters the lobby of O. Maselsky Metro Station.

[Photo Picture]
Photo: Bashlykov S.O. steps down from the escalator and walks toward the exit from Marshal Zhukov Metro Station.

[Photo Picture]
Photo: A car with Tetyutsky V.V. and Dvornikov V.M. turns from Ordzhonikidze Avenue and enters the Digma supermarket parking lot.

[Photo Picture]
Photo: A car with Tetyutsky V.V. and Dvornikov V.M. stops at the Digma supermarket parking lot.

[Photo Picture]
Photo: Dvornikov V.M. gets out of the V.V. Tetyutsky's car.

[Photo Picture]
Photo: Dvornikov V.M. walks away from the V.V. Tetyutsky's car towards the Digma supermarket.

[Photo Picture]
Photo: Dvornikov V.M. appears on the left side of the video recording, in front of the Digma store.

[Photo Picture]
Photo: 22.02.2015, Dvornikov V.M. stands near the entrance of the Digma supermarket.

[Photo Picture]
Photo: 22.02.2015, Dvornikov V.M. stands near the entrance of the Digma supermarket.

[Photo Picture]
Photo: 22.02.2015, Dvornikov V.M. leaves the area near the Digma supermarket.

[. . .]

Annex 40

Signed Declaration of Victor Tetutskiy, Suspect Interrogation Protocol (16 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

COPY

TRANSCRIPT
Of an interview with a suspect

The city of Kharkiv March 16, 2015

Interview commenced: 15:53
Interview completed: 16:50

Senior Lieutenant of Justice Berezhny A.Yu., Senior Investigator at SV USBU in Kharkiv Province, due to the pre-trial investigation in the criminal matter, which is recorded in the Unified Registry of Pre-Trial Investigations in Kharkiv Province as No. 42015220000000115, dated 22.02.2015, and in compliance with the requirements of Articles 42, 95, 104, 106, 223 and 224 of the Code of Criminal Procedure of Ukraine, has interviewed the following suspect in SV USBU office No. 11:

1. Last, first, and patronymic names: **Tetyutsky, Victor Viktorovich**
2. Date and place of birth: **05.05.1982, Zhovte Village, Slavic-Serbian District, Luhansk Province**
3. Nationality: **Ukrainian**
4. Citizenship: **Ukraine**
5. Marital status: **married, wife: Tetyutska, Yana Mykolaivna, DOB July 18, 1985**

- underage children: **Tetyutsky, Igor Viktorovich, DOB October 21, 2005**

6. Education: **junior college degree, graduate of Starosaltivsky Agrarian Lyceum, 2011**
7. Employed, position (or goes to school) at: **no official employment**
8. Place of registration: **20 Marshall Batytsky St., Apt. 501, Kharkiv**

- place of residence, phone: **Vovchansky County, Stary Saltiv Township, 49 Zhovtneva St., Apt. 53, 098-23-65-640**

9. Criminal record: **none**
10. Is he/she an elected legislator (state legislative body): **not applicable**
11. Information about passport or other ID: **identity confirmed.**

[. . .]

[. . .]

In response to the substance of these questions, the suspect testified as follows:

Question: Please take a look at the video record designated as "20150222130000-20150222141711." Do you recognize anyone on this video record?
Answer: Yes, I was indeed provided the video record to review it, which is designated as "20150222130000-20150222141711." According to the timestamp on this image, it is 1:24 P.M. on February 22, 2015. I recognize my car, Opel Omega, dark blue color, license plate No. No. AX5266EH, which stops at a parking place near a lamppost. I also see on this video how a man dressed in a black jacket, blue jeans, and a black cap exits my car from the front passenger door. I recognize this man. This is Vladimir Nikolayevich Dvornikov. I recognized V.N. Dvornikov by his clothes, gait, and constitution. The video shows how V.N. Dvornikov is moving towards the right side from my car. At that same time, I leave the parking lot, enter Ordzhonikidzhe Avenue, and turn left. Subsequently, I proceed towards Moskovsky Avenue and then towards home. These events have occurred on February 22, 2015 when I was giving a ride to V.N. Dvornikov after the explosion, from the yard of building No. 9/1 on Marshal Zhukov Avenue to Digma supermarket.

Question: Please take a look at the video record designated as "20150222130556-20150222133554." Do you recognize anyone on this video record?
Answer: Indeed. I was indeed provided the video record "20150222130556-20150222133554" to review it. According to the timestamp, it is 1:25 P.M. on February 22, 2015. V.N. Dvornikov appears on the left side of the video. He is dressed in a black jacket, blue jeans, and a black cap. I recognized V.N. Dvornikov by his clothes, his specific gait, and constitution. V.N. Dvornikov continued to stand near the Digma supermarket from 1:25 P.M. until the end of the video.

Question: Please take a look at the video record designated as "20150222133555-20150222134236." Do you recognize anyone on this video record?
Answer: I was indeed provided for review the video record "20150222133555-20150222134236," which shows V.N. Dvornikov, as I recognize him. He walks along the area near the Digma supermarket on 22.02.2015. I recognized V.N. Dvornikov by the features described above. According to the timestamp of this video record, V.N. Dvornikov leaves the area near the Digma supermarket at 1:47 P.M. on 22.02.2015.

The interview transcript has a photo-table attached with screenshots of video images "20150222130000-20150222141711", "20150222130556-20150222133554", "20150222133555-20150222134236"; 4 pages.

I have reviewed the transcript. Everything is stated correctly. No additions or notes were made.

[. . .]

[Photo Picture]
Picture: the car with V.V. Tetyutsky and V.N. Dvornikov drives off of Ordzhonikidze Avenue onto the Digma supermarket parking lot.

[Photo Picture]
Picture: the car with V.V. Tetyutsky and V.N. Dvornikov stops at the Digma supermarket parking lot.

[Photo Picture]
Picture: V.N. Dvornikov goes out of the car while V.V. Tetyutsky remains inside.

[Photo Picture]
Picture: V.N. Dvornikov walks from the car of V.V. Tetyutsky to the Digma supermarket.

[Photo Picture]
Picture: V.N. Dvornikov appears on the left side of the video record.

[Photo Picture]
Picture: V.N. Dvornikov is near the Digma supermarket. 22.02.2015.

[Photo Picture]
Picture: V.N. Dvornikov is near the Digma supermarket. 22.02.2015.

[Photo Picture]
Picture: V.N. Dvornikov leaves the area near the Digma supermarket. 22.02.2015.

Annex 41

Signed Declaration of Volodymyr Dvornikov, Suspect Interrogation Protocol (20 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

COPY

TRANSCRIPT
Of an interview with a suspect

The city of Kharkiv March 20, 2015

Interview commenced: 4:25 P.M.
Interview completed: 6:02 P.M.

Senior Lieutenant of Justice Berezhny A.Yu., Senior Investigator at SV USBU in Kharkiv Province, due to the pre-trial investigation in the criminal matter, which is recorded in the Unified Registry of Pre-Trial Investigations in Kharkiv Province as No. 42015220000000115, dated 22.02.2015, and in compliance with the requirements of Articles 42, 95, 104, 106, 223 and 224 of the Code of Criminal Procedure of Ukraine, has interviewed the following suspect in SV USBU office No. 11:

1. Last, first, and patronymic names: **Dvornikov, Volodymyr Mykolayovych**
2. Date and place of birth: **13.06.1978, Kharkiv**
3. Nationality: **Russian**
4. Citizenship: **Ukraine**
5. Marital status: **married, wife: Dvornikova, Nataliya Volodymyrivna, DOB 09.12.1977**
- underage children: **Dvornikova, Svitlana Volodymyrivna, DOB February 6, 2009**
6. Education: **high school**
7. Employed, position (or goes to school) at: **Dvornikov V.M., Sole Proprietor**
8. Place of registration: **32 Seventeenth Party Congress St., Apt. 193, Kharkiv**
- place of residence, phone: **same place, 099-048-05-64**
9. Criminal record: **no (according to his own statement)**
10. Is he/she an elected legislator (state legislative body): **not applicable**
11. Information about passport or other ID: **passport series CT #404488 issued on 17.04.2014 by Ordzhonikidze District Department of Kharkiv Municipal Office of the Ministry of Internal Affairs of Ukraine.**

[. . .]

[. . .]

In response to the substance of these questions, the suspect testified as follows:

Question: Please clarify how the phone and SIM card that you attached to the explosive device were activated (the so-called "initiating phone")?

Answer: The Samsung mobile phone and MTS SIM card, i.e. "the initiating phone", I activated at home on 19.02.2015, after it was purchased. Then later the same day I have left the said phone in Victor's car during my meeting with V.V. Tetyutsky. And Victor returned Samsung to me on the 20th or in the morning of February 21, 2015. I want to add that I also "taxied around" on 21.02.2015, I drove around Kharkov. Specifically: from my house, from HTZ, I drove along Traktorostroiteley Ave., Saltovskoye Highway, 50th Anniversary of the USSR Avenue (or maybe the 50th Anniversary of the All-Union Leninist Young Communist League Avenue, I mix their names), and across Saltovka. From there, down on Academician Pavlov St., towards the downtown. As far as I can remember, during this drive around the city, the main phones I always use (063-769-94-32, 099-048-05-64, and also the Kyivstar number, which I haven't been using for a long time and I don't remember very well: it starts with the area code 068), I didn't take them with me. The phone that holds SIM cards for MTS, my main phone services provider, and for Life, is faulty: it periodically switches off by itself.

I didn't take with me any other phones except for the "initiating" one during the planting of the explosive device at night on February 22, 2015.

Question: Please take a look at the 22.02.2015 video recording made by the surveillance camera mounted in the lobby of A.S. Maselsky Metro Station (the file "Maselsky akp 1 lobb. (at 12.11.08 s)". Do you recognize anyone on this video record?

Answer: I indeed was provided the video record "Maselsky akp 1 lobb. (at 12.11.08s.)". According to the timestamp on this image, it is 12:49:21 P.M. on February 22, 2015. I recognize the person, who looks like Bashlykov S.A., walking through a turnstile. This person appears to me to be Bashlykov S.A. based on his appearance: height, sporting gait, movements of hands. Also, on 22.02.2015 Bashlykov S.A. was dressed in a black short coat, black jeans, and black shoes, just like the person in the video. At the specific time, Bashlykov S.A. was supposed to travel from A.S. Maselsky Metro Station to Marshal Zhukov Metro Station and then walk over the venue where Euromaidan was held.

Question: Please take a look at the video recording made on 22.02.2015 by surveillance cameras mounted at Marshal Zhukov Metro Station (files: "Zhukov dist. hall (at 12.24.20s)", "Zhukov bottom of escalator 3.4. (at 12.24.30s)," "Zhukov top of escalator 1.2 (at 12.24.48s)". Do you recognize anyone on these video records?

Answer: I was indeed provided these video records to review them. According to the timestamp on the image, it's 1:03 P.M. on February 22, 2015 (the "Zhukov dist. hall (at 12.24.20s)" video and also on the video designated as "Zhukov bottom of escalator 3.4. (at 12.24.30s.)," at 13: 3:11 P.M., and on the video designated as "Zhukov top of escalator 1.2. (at 12.24.48s)" at 1:03:20, I recognize Bashlykov S.A., who is dressed like I described above, and who walks along the metro station platform, then steps on the escalator and enters the lobby.

Question: Please take a look at the video record designated as "20150222130000-20150222141711." Do you recognize anyone on this video record?

Answer: Yes, I was indeed provided the video record to review it, which is designated as "20150222130000-20150222141711." According to the timestamp on this image, it is 1:24 P.M. on February 22, 2015. I recognize the exterior of the car, which appears to be very similar to V.V. Tetyutsky's Opel Omega. I don't remember its license plate number. This car stops at a parking lot near a lamp post. I also see on this video how a man dressed in a black jacket, blue jeans, and a black cap exits this car. I recognized that this man is me. These events occurred on 22.02.2015 at the parking lot when V.V. Tetyutsky dropped me off in his car and went home. Then, I went to the Digma store area to wait for Bashlykov S.A., as we agreed earlier.

Question: Please take a look at the video record designated as "20150222130556-20150222133554." Do you recognize anyone on this video record?

Answer: I indeed was indeed provided the video record "20150222130556-20150222133554" to review it. According to the timestamp, it is 1:25 P.M. on February 22, 2015. A man appears on the left side of the video. I recognize that this man is me. The video shows how I walk along the area near the Digma store waiting for Bashlykov S.A.

Question: Please take a look at the video record designated as "20150222133555-20150222134236." Do you recognize anyone on this video record?

Answer: Yes, I was indeed provided the video record to review it, which is designated as "20150222133555-20150222134236." According to the timestamp of this video, it is 1:47 P.M. on 22.02.2015. I'm leaving the Digma store area without meeting Bashlykov S.A. and I'm going home.

The interview transcript has a photo table attached with the videos: "20150222130000-20150222141711," "20150222130556-20150222133554," "20150222133555-20150222134236," "Zhukov dist. hall (at 12.24.20s.)," "Zhukov bottom of escalator, 3.4. (at 12.24.30s.)," "Zhukov top of escalator, 1.2. (at 12.24.48s.)," "Maselsky akp 1 lobb. (at 12.11.08s.)," 7 pages.

Suspect **[Signature]** ***Dvornikov V.N.***
(Last, first, and patronymic names)

Defense Counsel **[Signature]** ***O.O. Lmudenko***
(Last, first, and patronymic names)

Senior Investigator of Investigative Department of the SBU Field Office in Kharkiv Province
Senior Lieutenant of Justice **[Signature]** **A.Yu. Berezhny**

[Photo Picture]

Photo: Bashlykov S.O. enters the lobby of O. Maselsky Metro Station.

[. . .]

[Photo Picture]

Photo: Bashlykov S.O. exits a train at the Marshal Zhukov Metro Station and walks towards the escalator to go outside.

[Photo Picture]

Photo: Bashlykov S.O. is in front of the escalator facing the exit from Marshal Zhukov Metro Station.

[. . .]

[Photo Picture]

Photo: Bashlykov S.O. steps down from the escalator and walks toward the exit from Marshal Zhukov Metro Station.

[Photo Picture]

Photo: A car with Tetyutsky V.V. and Dvornikov V.M. turns from Ordzhonikidze Avenue and enters the Digma supermarket parking lot.

[. . .]

[Photo Picture]

Photo: A car with Tetyutsky V.V. and Dvornikov V.M. stops at the Digma supermarket parking lot.

[Photo Picture]

Photo: Dvornikov V.M. gets out of the V.V. Tetyutsky's car.

[. . .]

[Photo Picture]

Photo: Dvornikov V.M. walks away from the V.V. Tetyutsky's car towards the Digma supermarket.

[Photo Picture]

Photo: Dvornikov V.M. appears on the left side of the video recording, in front of the Digma store.

[. . .]

[Photo Picture]

Photo: 22.02.2015, Dvornikov V.M. stands near the entrance of the Digma supermarket.

[Photo Picture]

Photo: 22.02.2015, Dvornikov V.M. stands near the entrance of the Digma supermarket.

[. . .]

[Photo Picture]

Photo: 22.02.2015, Dvornikov V.M. leaves the area near the Digma supermarket.

[. . .]

Annex 42

Transcript of Covert Investigative Action Concerning V. Dvornikov, drafted by Lieutenant Colonel O.V. Diaghilev, Directorate of the Security Service of Ukraine in the Kharkiv Region (25 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

COPY
~~Sealed~~
Unsealed
Note №1
[Seal: illegible; Filed Office in Kharkiv Province]

TRANSCRIPT
of covert investigative action (search):
audio and video recording in a public place

The city of Kharkiv March 25, 2015

Commencing time: 10:00 A.M.
Completion time: 2:55 P.M.

Lieutenant Colonel O.V. Diaghilev, Head of Sector No. 2 of the 1st Department of GV ZND USBU in Kharkiv Province, acting in his office at Kharkiv Province Security Service of Ukraine, following the requirements of Articles 103-107, 252 of the Code of Criminal Procedure of Ukraine, hereby made this transcript as follows:

between March 2, 2015 and March 24, 2015, and using UOTZ GU MVS of Ukraine in Kharkiv Province, and in order to address the request Justice Major Ryzhylo A.V., Senior Investigator of OVS Investigative Department at USBU in Kharkiv Province (№ 70 / 6-825t dated 27.02.2015),

within the framework of the criminal matter registered in the Unified Registry of Pre-Trial Investigations as No. 42015220000000115, pursuant to a criminal offense Part 3, Article 258 of the Criminal Code of Ukraine, and following the ruling made by Piddubny R.M., an investigating judge at the Court of Appeals in Kharkiv Province, No. 2712, dated 27.02.2015, and the provisions of Article 270 of the Code of Criminal Procedure of Ukraine,

have conducted an undercover investigative action: audio and video recording inside a public place, the premises of Kharkiv Detention Center (99 Poltavsky Shlyakh, Kharkiv) without notifying individuals present during the action, Dvornikov, Volodymyr Mykolayovych, a citizen Ukraine, DOB June 13, 1978, born in Kharkiv, residing at: 32 Seventeenth Party Congress St., Apt. 193, Kharkiv.

The covert investigative action/search has resulted in recording a number of conversations and some of them appear to contain references to a very serious criminal offense, no video was recorded due to a lack of opportunities). It included:

04.03.2015 at 10:09:06, Dvornikov V.M. (hereinafter referred to as "O"), who talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"M" - I don't get it, did you blew up this shit or didn't you? Just tell me.
"O" - I blew it up
"M" - Some tiger, shit, it would be better if you'd blow up this building, fuck, and Topaz home, shit, to have that dick gone.

I got it yesterday that you blew it up because I told "MN-100" what it is, and you know the meaning right away, what it is and how it is. Well, some regular guy said it, well, the hell, some bomb, I'm shocked."

"O" - (UI), they would have said it, (UI).
"M" - Well, yeah (laughs). I don't know, the whole thing should have been blown up. Put in some 100 kg of TNT. It would go bang, go bang.
"O" - Well, it didn't turn out as expected, on the one hand, and on the other hand, it turned out bad.

ent. 2775
31.03.15

"M" - Because of that fucking van they were showing?
"O" - Yes, because of the van, it wasn't visible what was going on. They were overtaken by the van.
"M" - Well, if it wasn't for the van, they all would have been greased.
"O" - The front rows, fucking shit, in the front rows, the battalions with chevrons, in that uniform.
"M" - Well, yeah
"O" - In the uniform. And pedos came out, 15-year old boy and some 18-year old dick, they came out to get some dough, for that shit. Where were their parents?
"M" - A fuckup!
"O" - I feel sorry for them, a fuckup.
"M" - But what can you do, they are fuck-heads.
"O" - It was an accident. I just (UI)
"M" - You have victims, I got it, you had those fighters, the victims, some tiger, shit.
"O" - Yes, I planted it so that those pedos would be smashed.
"M" - (interrupts) Did you really, use those screws to load it, as they say in the news?
"O" - It was already loaded. It is a factory-made mine. (UI) 4 sides (UI) impact elements (UI) flying from above.
"M" - Well, in a nutshell, it would have been flying that way.
"O" - Yes
"M" - (laughs) I would throw such thing to Topaz's home.
"O" - I planted it, not like (UI)
"M" - Well, yeah, to get people.
"O" - Yes, planted it, the wire, I pulled it.
"M" - (interrupts) And what is the effective range, how far would it strike?
"O" - The range is 120 meters, anything alive.
"M" - (laughs) Some shit, bang.
"O" - (UI) the Ukrainians were banged in Volnovakha. Did you hear about the bus blown up in Volnovakha?
"M" - Well, yes.
"O" - (UI) the whole bus was done.
"M" - Some shit.
"O" - Women, children.
"M" - Faggots!
"O" - (UI) and on the video there, "Glory to Ukraine! Glory to heroes! The Russians (UI) bang! Uh (drawling)! Oh (drawling)! (UI), the main Euromaidan protester was hit, (UI) in his heart (UI).
(Sound of opening lock)
"M1" - Get your stuff, to the County Division.
"M" - Get your stuff, to the County Division.
Shit, you are a taiga tiger, I swear.
"O" - But you just... with your own kind.

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"M" - (interrupts) I know, not a soul! No way, way to go, shit (UI) that dick, fuck it, a tiger indeed, with all my heart! For Lozovsky, with all my heart!

Got him. Yes, but sorry for those lads.

"O" - It is a pity! They came to get some 100 grivnas. Well, I didn't see them, shit. I was already

"M" - (interrupts) But what could you do when it has already banged. It wasn't you that was shooting.

"O" - But I was initiating it

"M" - (interrupts) Really?

"O" - With a phone. I looked, those fighters, here is the column and those fighters are in front, and they went, and there was a slight delay then, shit, and at that time the van overtakes it, and these suckers, I didn't see them, shit.

"M" - Damn it, if it wasn't for the van, they all would have been creamed, those suckers, that's it.

"O" - Well, yeah, and then I also

"M" - (interrupts) We saw it on TV, the fuck, that fucking van, we were sitting in a house, or damn, bad luck for the guys, they were aiming and aiming, and then that fucking van.

The same conversation starting at 7:22 timestamp:

"O" - It is unknown what that request will bring... shitty lists... SBU lists… shit, people who were involved.

"M" - Did they find those who are in Russia?

"O" - They didn't find, he sent a request, shit, and I (UI) where would I get such information?

"M" - Well, yeah

"O" - And I am like... And they fuck...

"M" - Yes, fuck it, make it like, say that the instructions came from above, who the fuck knows where they are. They sent it to me, they saw what I was writing in a forum. That's it. It started.

"O" - Well, that's how I do it. That's how I say. Why me, shit, the request, (UI) personal, that's not my personal assignment.

"M" - You just tell me, will there be an offensive on Kharkiv? Will we be released or not?

"O" - I don't know. At least I hope so. Well, it is hard for me to realize that I, like fucking crap, will be serving all my life.

04.03.2015 at 10:18:09, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"M" - Shit, but why didn't you put in more plastique? To make the explosion bigger.

"O" - Why the fuck? The explosive power was already 2 kg of TNT. It banged like shit.

"M" - We watched it on video, it wasn't such a huge bang.

"O" - Well, you can't see it well on video. That march, crap, the "Maidan protesters", (UI), fucking fed up with their marching, the country is in an asshole but they keep marching.

(The end of conversation)

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05.03.2015 at 18:59:40, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"M" - Hey, are you native of Kharkiv?
"O" - Yes.
"M" - From where?
"O" - From the Tractor Factory.
"M" - Hey, fucking crap. You were freaking out, you live in Kharkiv and blow up people! Or is it necessary? (Silence).
"M" - Vova?
"O" - Yes.
"M" - Is it necessary?
"O" - Certainly.
"M" - Why, the fuck?
"O" - Bro, we didn't start this war... Really, not us. Do you see what kind of shit is going on? What is happening in the country? The war, fucking shit. The fighters say it's already almost 50 guys who died in Donbass, shit. The infrastructure, the dollar is 40, damn it. My parents' pension is less than 1,100. 2,200 for the two of them. What can you do with it? Really! And they are marching around mocking at us!
"M" - Well, I'm with you, on one hand.
"O" - And, certainly, I'm sorry for the youngsters, those who were not involved, sorry for them. But a gunner also doesn't see shit when he is given coordinates to shoot shells.
"M" - How old are you?
"O" - 36.
"M1" - Well, you are in such huge cross-hairs that it is unreal.
"O" - I know. A special convict. I am monitored, driven around the city in a convoy (UI).

05.03.2015 at 19:03:36, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"M1" - Hey, what is going to happen?
"O" - I have a brother in Mariupol. I think Mariupol will be taken, shit.
"M1" - Then, politically, they will probably change those in power.
"M1" - Well, will they take Kharkiv?
"O" - I don't know. I can't tell.
"M1" - Then why the fuck to blow up in Kharkiv?
"M" - Well, do you have any family?
"O" - Yes.
"M" - A wife and kids?
"O" - Yes, a wife, a six-year old daughter, I sent her to Belgorod. Managed to do it in time in January.
"M" - Why didn't you leave?
"O" - I was going to leave. Didn't leave.

05.03.2015 at 19:13:33, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"M" - Were it you fucking it?
"O" - Yes.
"M1" - And how did they find you?
"O" - How the hell I know?
"M" - Somebody fucking squealed?
"O" - Yeah, somebody on the inside has squealed.
"M1" - Just one, uh?
"O" - The first one has started.
"M" - And where your third accomplice?
"O" - Well, somewhere over here.

05.03.2015 at 19:31:56, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"M" - And have you plead guilty?
"O" - Yes.
"M1" - So, how many years would it be?
"O" - Well, maybe a life sentence.

05.03.2015 at 20:05:25, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"O" - It wasn't as if it was done without thinking. There's a road, an avenue goes there, and it was planted, this shit was aimed at a 30-degree angle so that it targets the center of the road. And the back part would fly straight into a tree right behind it. And the front part was aimed at the road.
"M1" - And who did all this shit?
"M" - Um, the combinations of all those roads?
"O" - Well, as they say, we all are self-educated.
"M1" - Hey, did they pay for it? Or why the fuck do you need it?
"O" - Well, all this is just an idea! Primarily an idea. Well, there was compensation.
"M" - A lot of shit?
"O" - I think at least a tenner.
"M1" - For a one time, right?
"O" - It is a pity that those 15-year old suckers... Guys went to get some money and pushed themselves into a front row.
"M1" - One hundred rubles, right?
"O" - Probably! I was working, and "Kharkiv-1" voluntary battalion was walking in front, which was sent to Donbass to ATO. I was after them. They were walking in front, I was sure that it was the chevrons walking. So, I banged it. It turned out I banged the Deputy Chief of Lozovsky County Division. Well, shit, it wasn't us who started this damn war.

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05.03.2015 at 20:10:06, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"O" - SBU hacked my email account and found that Russians were interested in the lists of SBU and police staff who were involved in ATO. And they were shocked that, perhaps, their lists are already…
"M" - And how did you get in touch with the Russians?
"O" - We did it ourselves, we found the Russians.
"M" - You?
"O" - Yes.
"M" - And they didn't have time to pay the money?
"O" - No, there didn't have time. They were supposed to give it to us in a week or two. It is not a quick shit, it's not like you went and get cash.

05.03.2015 at 20:49:31, Dvornikov V.M. ("O") talks with other men ("M" and "M1") at Kharkiv Detention Center. The conversation:

"M1" - Hey, and who is your leader in this case?
"O" - Myself.
"M1" - You are the leader?! Fucking shit.
"M1" - So, this crap was framed on his accomplices, do they admit it?
"O" - No, one of them started to speak. Everything was put together, there were two days of witness confrontation.
Well, generally speaking, it was put together well…

(The end of conversation)

The conversations recorded during this covert investigative action were recorded on laser disk No. 2925/GVZND and attached to this transcript. Number of files on the disk - 11, disk volume - 66.4 MB.

Attached: DVD-R No. 2925/GV ZND, sealed.

Report written by:
Chief of the 2nd Sector, , 1st Department of GV ZND
Kharkiv Province Field Office of the Ukrainian Security Service
Lieutenant Colonel [Signature] O. Dyagilev

70/5 -5967
26/03/15

6

Annex 43

Transcript of Covert Investigative Action Concerning V. Tetutskiy, drafted by Lieutenant Colonel O.V Diaghilev, Directorate of the Security Service of Ukraine in the Kharkiv Region (25 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Secret
Counterpart
No. 1

COPY

[illegible seal]

TRANSCRIPT
of covert investigative activity
(audio and video surveillance conducted in a publicly accessible place)

Kharkiv March *25*, 2015

Start time: *3:08 PM*
End time: *4:58 PM*

Lieutenant Colonel O.V. Diaghilev, head of the 2nd Division, 1st Department, Main Department for the Defense of National Statehood, Kharkiv Regional Directorate of the Security Service of Ukraine [SBU], drew up this transcript at the offices of the Kharkiv Regional Directorate of the SBU, pursuant to Articles 103-107 and 252 of the Criminal Procedure Code of Ukraine, based on covert investigative activity (audio and video surveillance of a publicly accessible place, specifically the premises of the Kharkiv Pre-Trial Detention Center located at 99 Poltavskyi Shlyakh, Kharkiv) without the knowledge of the persons present therein, in relation to Ukrainian citizen Viktor Viktorovych Tetyutskyi, born in Zhovte, Slovyanoserbsk District, Luhansk Region on 05/05/1982 and residing at 20 vul. Batytskoho, Kharkiv, with the help of the Department of Operational and Technical Measures of the Main Directorate of the Ministry of Internal Affairs of Ukraine for the Kharkiv Region, on the instructions of Major of Justice A.V. Ryzhylo, a senior special investigator with the Investigations Department of the Kharkiv Regional Directorate of the SBU (No. 70/6-825t dated 02/27/2015), as part of the criminal case file recorded in the Unified Register of Pre-Trial Investigations under No. 42015220000000115, based on elements of a criminal offense provided for by Article 258(3) of the Criminal Code of Ukraine, pursuant to Ruling No. 2713 of Investigating Judge of the Kharkiv Regional Court of Appeal R.M. Piddubnyi dated 02/27/2015 and Article 270 of the Criminal Procedure Code of Ukraine.

The covert investigative activity resulted in a recording of various conversations, some of which contain indications of a serious criminal act (no video recording was made due to a lack of technical capability), including the following:

03/05/2015, start of conversation at 21-23, conversation from 06:47. V.V. Tetyutskyi (hereinafter "O") converses with another man ("M") at the Kharkiv Pre-Trial Detention Center.

M: But how did they bust you? I don't get it at all. Were they listening to you or something?

O: I don't get it either yet.

M: Well, they busted you last. Yeah, it seems they busted the chief himself first.

O: They busted the young guy first. They busted him on the evening of the 25th. And then everyone else after that.

M: That's the guy in the 100 Series.

O: Yes, I believe that's the one. Then he pointed out all the others. Because I'm not registered anywhere. They could have found me, but it was too targeted and too fast.

Ref. 2775, 03/31/15

[illegible]

COPY

M: So, what is he thinking? He's thinking that they'll forgive him for you-know-what, or that he played the most insignificant role.

O: Well, it all depends. I haven't even had a chance to speak with him yet. On the first night he was trying to pin the fuse on IVS.

M: What are they even charging him with?

O: So far we're being prosecuted under the same article.

M: Well, shit, what role did he even play? You were to bring it, the other one was to detonate it, and what about him?

O: He was a lookout while it was being planted and gave a signal when the column started moving.

M (interrupts): And he gave a signal when the column started moving. Yes, that's the one.

O: Yes.

M: So, I used that thing, the teevee, when your top boss…

O: Yes.

M: He gave me, basically, a signal.

O: That's him, the small-fry!

M: That the column started moving and he activated the explosive device.

O: Uh-huh.

M: OK, it all makes sense.

The conversations recorded during the covert investigative activity were saved onto a disk for laser reading systems No. *2922*/GVZND and are enclosed with this transcript. Number of files on disk: *6*, disk volume: *87.4* Mb.

Enclosed: DVD-R No. *2922*/GV ZND, secret.

Transcript prepared by:
Head of the 2nd Division, 1st Department, Main Department for the Defense of National Statehood, Kharkiv Regional Directorate of the Security Service of Ukraine
Lieutenant Colonel [signature] O.V. Diaghilev,

[stamp:] [illegible] *70/5- 5966, 03/26/15*

Annex 44

Signed Declaration of Volodymyr Oleksiyovych Lytvynchuk, Victim Interrogation Protocol (2 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

City of Avdiivka 06.02.2017

Questioning began at 09 hr. 40 min.
Questioning ended at 10 hr. 20 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit of Pokrovskyi Police Division of the Main Department of the National Police in Donetsk region M. Zhosin, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 12017050140000093 of 06.02.2017, in the facility of Avdiivka Police Unit of Pokrovskyi Police Division of the Main Department of the National Police in Donetsk region, having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic Lytvynchuk Volodymyr Oleksiyovych
2. Date and place of birth 22.04.1970
3. Nationality Ukrainian
4. Citizenship of Ukraine
5. Education Vocational
6. Place of work (study) Does not work
7. Type of work and position Retired
8. Place of residency (registration) Avdiivka, 16 Donetska St.
9. Criminal charges
10. Council membership No
11. Information about passport or other form of identification document […] .

It was explained to the victim that he was called for questioning in the criminal proceeding for open theft of property.

[…]

I have been living at the above address since 2008.

On February 4, 2017, at about 05:30, I went out into the courtyard of the house where I live, took out the ashes from the stove. I heard explosions that were coming at intervals of about 20 seconds. The third explosion was heard in my yard.

Coming out from behind the house, I saw a shell crater that damaged my property, in particular: a fence made of a metal profile, windows of outbuildings, a garage roof, and a plastic siding of the house.

I reported the incident to the police.

It is written down correctly based on my words, and verified by me.
[*Signed*] Litvinchuk V.A. 05.02.2017

Investigator of Kramatorsk Police Unit

Captain of police [*Signed*] Yavrik Y.V.
05.02.2017

Compiled by Investigator of Avdiivka Police Unit
[*Signed*] M. Zhosin

Annex 45

Signed Declaration of Valentyna Vasilievna Babenko, Victim Interrogation Protocol
(3 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

Town of Avdiivka 03.02.2017

Questioning began at 12 hr. 00 min., ended at 12 hr. 20 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit of Pokrovskyi Police Division of the Main Department of the National Police in Donetsk region Lieutenant of police S. Y. Polonsky, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 100-170-87 of 02.03.2017, at the place of residence, at presence of persons who were explained the requirements of p. 2 art. 66 of the Criminal Procedure Code of Ukraine regarding their obligation not to share information regarding the completed procedural action […], having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic Babenko Valentyna Vasilievna
2. Date of birth 6.06.1950
3. Place of birth city of Avdiivka
4. Citizenship of Ukraine
5. Education Vocational
6. Place of work (study) Retired
7. Place of residency (registration) city of Avdiivka, 42 Donetska St.
8. Tel. […]
9. Criminal charges
10. Council membership No
11. Information about passport or other form of identification document […] .

[…]

The victim was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony).

Victim [Signed]

On the merits of the questions that I was asked, I can explain that I live at the address: the city of Avdeevka, 42 Donetskskaya St., where on February 2, 2017 at about 20:00 shelling took place. A shell exploded near my house, causing damage to my place of residence - the front door, two plastic window blocks were destroyed, the doors in the kitchen, the shed were broken, glass was broken in all buildings. I have nothing more to add.

It is written down correctly based on my words, and verified by me.
3.02.2017 [*Signed*]
Babenko V.B.

Investigator of Avdiivka Police Unit [*Signed*] S.U. Polonsky

Stamp: SAME AS THE ORIGINAL
Investigator of the Investigations Unit of the Second Department of the Main Department of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed]

Annex 46

Signed Declaration of Anna Aleksandrovna Buzhynskaya, Victim Interrogation Protocol (4 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

Town of Avdiivka 04.02.2017

Questioning began at 10 hr. 00 min., ended at 10 hr. 20 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit of Pokrovskyi Police Division of the Main Department of the National Police in Donetsk region Captain of police M. Zhosin, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 12017050040000088 of 04.03.2017, at the place of residence, at presence of persons who were explained the requirements of p. 2 art. 66 of the Criminal Procedure Code of Ukraine regarding their obligation not to share information regarding the completed procedural action […], having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic	Anna Aleksandrovna Buzhynskaya
2. Date of birth	26.05.1963
3. Place of birth	village of Umanskaya, Yasinovatskiy district
4. Citizenship	of Ukraine
5. Education	Vocational
6. Place of work (study)	FLP
7. Place of residency (registration)	city of Avdiivka, 24 Nezavisimosti St.
8. Tel.	
9. Criminal charges	No
10. Council membership	No

11. Information about passport or other form of identification document verified.

The victim was explained that she is called for questioning in the criminal proceeding based on p. 2 art. 258 of the Criminal Code of Ukraine.

[…]

The victim was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony).

Victim [Signed]

I live at the indicated address with my family, daughter and child, born in 2005.

On 03.02.2017, at about 11:00 p.m., I was at home when the shelling of the city of Avdiivka began, at the end of which a shell hit my yard, as a result of which the wall of the summer kitchen, the slate roof of the garage, and the slate covering of the house from the side of the explosion were damaged. Glasses (double-glazed windows) of plastic windows were damaged from the side of the explosion. As a result of the explosion, the body of a Mercedes Sprinter, state number AH5419CK, was damaged. It was warped, shrapnel cut the body and glass of the car.

Stamp: SAME AS THE ORIGINAL
Investigator of the Investigations Unit of the Second Department of the Main Department
of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed]

Recorded correctly.	A.A. Buzhanskaya	[Signed]
Investigator	M. Zhosin	[Signed]

Stamp: SAME AS THE ORIGINAL
Investigator of Police Unit of the Second Department of the Main Department
of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed]

Annex 47

Signed Declaration of Olga Nikolaevna Dyuzhikova, Victim Interrogation Protocol
(4 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

Town of Avdiivka 04.02.2017

Questioning began at 13 hr. 00 min., ended at 13 hr. 40 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit M.A. Gybonenko, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 12001705014000011 of 04.02.201[7], at the place of residence, at presence of persons who were explained the requirements of p. 2 art. 66 of the Criminal Procedure Code of Ukraine regarding their obligation not to share information regarding the completed procedural action […], having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic	Olga Nikolaevna Dyuzhikova
2. Date and place of birth	01.12.1985, city of Avdiivka
3. Nationality	Ukrainian
4. Citizenship	of Ukraine
5. Education	Vocational
6. Place of work (study)	on maternity leave
7. Type of work and position	
8. Place of residency (registration)	city of Avdiivka, 73/64 Sobornaya St..
9. Criminal charges	No
10. Council membership	No

11. Information about passport or other form of identification document _____.

[…]

The victim was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony) [Signed]

[…]

On the merits of the questions that I was asked, I can explain that my apartment is located on the 3rd floor. On 03.02.17 at about 22:00 during the shelling of the city of Avdiivka, a shell hit the floor slab panel between my apartment and the 4th floor, into the ceiling of my apartment, as a result of which the following was damaged: a wall, windows flew out, glass on the balcony flew out, and wall in the toilet. The extractor hood, gas stove, and refrigerator were shuttered by shrapnel. I and my family members were not injured. There is nothing more to add.

It is written correctly from my words, and read by me.

[Signed]

Investigator [Signed] M.A. Gybonenko

Stamp: SAME AS THE ORIGINAL
Investigator of the Investigations Unit of the Second Department of the Main Department of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed]

Annex 48

Signed Declaration of Vira Mykolaivna Bespalova, Victim Interrogation Protocol (4 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

Town of Avdiivka 04.02.2017

Questioning began at 9 hr. 30 min., ended at 9 hr. 50 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit of Pokrovskyi Police Division of the Main Department of the National Police in Donetsk region Captain of police M. Zhosin, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 12017050040000088 of 04.03.2017, at the place of residence, at presence of persons who were explained the requirements of p. 2 art. 66 of the Criminal Procedure Code of Ukraine regarding their obligation not to share information regarding the completed procedural action […], having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic	Vira Mykolaivna Bespalova
2. Date of birth	07.01.1952
3. Place of birth	Kyiv region
4. Citizenship	of Ukraine
5. Education	Vocational
6. Place of work (study)	Retired
7. Place of residency (registration)	city of Avdiivka, 84 Soborna St.
8. Tel.	[…]
9. Criminal charges	
10. Council membership	No

11. Information about passport or other form of identification document verified .

The victim was explained that she is called for questioning in the criminal proceeding based on p. 2 art. 258 of the Criminal Code of Ukraine.

[…]

The victim was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony).

Victim [Signed]

I explain that I live at the address: city of Avdiivka, 84 Sobornaya St.. On February 3, 2017, at about 23:00, the city of Avdiivka was shelled. A shell flew into my yard, next to the house, and caused destruction of the facade, property was damaged, glass was broken, the onduline roof and slab blocks were damaged, the walls of the house were hit with fragments, the doors were damaged, and the electric meter was shattered. The damage that was caused to me is significant.

It is written down correctly. V.M. Bespalaya [*Signed*]

[*Signed*] M. Zhosin

Stamp: SAME AS THE ORIGINAL
Investigator of the Investigations Unit of the Second Department of the Main Department of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed]

Annex 49

Signed Declaration of Viktor Volodymyrovych Dzhyuba, Victim Interrogation Protocol (6 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

City of Avdiivka 06.02.2017

Questioning began at 11 hr. 30 min.
Questioning ended at 11 hr. 50 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit of Pokrovskyi Police Division of the Main Department of the National Police in Donetsk region M. Zhosin, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 12017050140000093 of 06.02.2017, in the facility of Avdiivka Police Unit of Pokrovskyi Police Division of the Main Department of the National Police in Donetsk region, having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic Viktor Volodymyrovych Dzhyuba
2. Date and place of birth 23.12.1947, city of Avdiivka
3. Nationality Ukrainian
4. Citizenship of Ukraine
5. Education Vocational
6. Place of work (study) Disability of the 2nd category
7. Type of work and position
8. Place of residency (registration) Avdiivka, 146 Pervomayska St.
9. Criminal charges No
10. Council membership No
11. Information about passport or other form of identification document person has been verified .

It was explained to the victim that he was called for questioning in the criminal proceeding for open theft of property.

[…]

The victim, V.V. Dzhyuba, was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony).

[…]

I have been living at the above address since I was born.

On 03.02.2017 I was at my place of residence. Around 21:00 I went to bed.

Around 11:40 pm I woke up to the sound of shell explosions.

Hearing a blow to the wall of the house and leaving the hall into the living room, I saw that the metal-plastic window that overlooks the courtyard of the house was damaged and in its lower right corner there was a metal object that looked like a component part of the projectile.

Since I am a disabled person of the 2nd category, and I also do not have a telephone, on 05.02.2017 I asked my neighbors to report the incident to the police.

I did not touch the above-mentioned object, which looked like a component part of the projectile, until the police arrived.

It is written down correctly based on my words, and verified by me.

V.V. Dzhyuba [*Signed*]

Questioned by [*Signed*] M. Zhosin

Annex 50

Signed Declaration of Hanna Mykolayivna Fandeeva, Witness Interrogation Protocol (15 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Strictly Confidential

Testimony of Hanna Mykolayvna Fandeeva

1. I am Hanna Mykolayvna Fadeeva, born on July 23, 1941. I am a resident of Avdiivka, a town in the East of Ukraine located close to the northern borders of Donetsk. I have been living in Avdiivka for 51 years since 1965. I am 76 years of age. I worked for the railway and on top of that for an agricultural enterprise trying to make enough money to build my own home. Now I am retired. My pension is approximately UAH 1300.00 per month.

2. I live in my own house located at the following address: 86 Kolosova (formerly Kirova), Avdiivka. I live alone.

3. Several days before January 30, 2017, the shelling began in Avdiivka. Starting from the evening of January 30, 2017, the shelling intensified; I could hear it. It was very scary.

4. During the night between the 30th and 31st of January, 2017, I was at home asleep. Closer to 4 am I heard the sound of glass breaking and [walls] collapsing. I woke up and realized that there had been an explosion and I had to hide. I ran into another room. After the explosion subsided I saw that I was trapped in my own house and could not get out. The shelling continued and I was very scared when I realized that at that time I could not get out of the building and was trapped. Because it was the rear part of the building that collapsed it took my neighbors some time to realize what had happened to me.

5. After the explosion I spent nearly 2 hours in the part of the building that remained intact. The outside temperature at the time was close to minus 17 degrees centigrade. My neighbors helped to rescue me; they partially removed the debris and helped me out of the building, they pulled me out. After the attack I was left without a roof over my head. My warm house in which I had everything I needed to live had been destroyed. As a result of the shelling there was a hole in the outer wall of the house, everything inside the building that I needed for my everyday life had been destroyed: the toilet, the bathroom, the gas boiler that I used to heat up the house, my dishes. As a result of the attack I was forced to stay with my neighbors for three days. Also the roof of the summer kitchen was entirely destroyed and the doors and windows were broken.

6. During the same night I saw that the shelling also damaged a number of other houses of my neighbors who lived in the same street.

7. After the explosion destroyed my house my blood pressure shot up and I have been suffering from constant headaches. For several days I was

treated in a local hospital and took a sedative; they gave me shots. I suffer from memory loss, I am constantly shaking, my hands are trembling, [and] I started forgetting words and letters when I write. During the night from the 14th to 15th of February 2017 when I heard the sound of shelling again I had to take sedative and plug my ears so that I would not hear the shooting.

8. When my house was destroyed the police came to inspect the scene. Since it had happened during the night I do not know which kind of weapons were used to damage my house, who was shooting, and from which direction. A part of the shell that was pulled out of the house is still lying next to my damaged home.

The photos of the damage, which were made on February 15, 2017, have been enclosed with this testimony.

The above is an accurate account of my statement.

15 February 2017 Signature [signature]

Avdiivka

Fandeeva Anna Nikolaevna

Annex 51

Signed Declaration of Anna Vyacheslavovna Gulchevskaya, Victim Interrogation Protocol (19 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

Town of Avdiivka 19.02.2017

Questioning began at 11 hr. 00 min.
Questioning ended at 11 hr. 43 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit Senior Lieutenant of police O.L. Kulikov, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 120-170-125 of 18.02.2017, at the place of residence, at presence of persons who were explained the requirements of p. 2 art. 66 of the Criminal Procedure Code of Ukraine regarding their obligation not to share information regarding the completed procedural action […], having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic	Anna Vyacheslavovna Gulchevskaya
2. Date and place of birth	22.03.1960, Donetsk region
3. Nationality	Ukrainian
4. Citizenship	of Ukraine
5. Education	Vocational
6. Place of work (study)	Avdiivka Central City Library
7. Type of work and position	librarian
8. Place of residency (registration)	Donetsk region, city of Avdiivka, 67 Chistyakova St..
9. Criminal charges	No
10. Council membership	No

11. Information about passport or other form of identification document _____.

[…]

The victim, A.V. Gulchevskaya, was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony) [Signed]

[…]

Based on the asked questions, the victim, A.V. Gulchevskaya, provided the following testimony: I have been living at the above address for a long time together with my son, Denis Vladimirovich Gulchevskiy, born in 1986. Thus, on February 18, 2017, at about 22:30 during shelling 7 windows were damaged on the territory of my household.

It is written correctly from my words, and read by me.
[Signed]
Investigator of Avdiivka Police Unit [Signed] O.L. Kulikov

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

Annex 52

Signed Declaration of Oleksandr Victorovych Povarnitsyn, Property Inspection Protocol (19 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD OF INSPECTION

The city of Avdiivka 19.02.2017
Inspection began at 11 hr. 30 min
Inspection ended at 11 hr. 41 min

Investigator of Avdiivka Police Unit, Senior Lieutenant of Police D.L. Kulikov, having complied with articles 104, 105, 106, 234, 237, 223 of the Criminal Procedure Code of Ukraine:

In presence of witnesses:

1) Serhiy Petrovych Volkov, born on 20.12.1964, the city of Avdiivka, 69A Chystiakova St.,
2) Ihor Ihorovych Symonchuk, born on 18.09.1949, the city of Avdiivka, 17 Gagarina St., who were explained their rights and responsibilities in accordance with articles 11, 13, 15, 2223 of the Criminal Procedure Code of Ukraine

[…]

With participation of Oleksandr Victorovych Povarnitsyn, born on 30.11.1971, the city of Avdiivka, at 57 Chystiakova St.

[…]

The following was established based on the inspection: The place of inspection is a private household at the address: the city of Avdiivka city, 57 Chistyakova St.. The territory is fenced. There is a car garage at the entrance to the territory of the household on the right side. At the time of the inspection, the roof of the garage was destroyed. There is an ALFA ROMEO car in the garage, on which the roof of the garage fell. The car is also damaged inside. Next to the garage is a one-story house, with one damaged window on the right side. The fragments also damaged the wall and the roof of the house. Present at the inspection O.V. Povarnitsyn explained that the damage occurred on February 18, 2017 at 11:40 pm during the artillery shelling of the city. There are no victims.

[…]

The inspection was conducted during day time, in the natural light at the temperature of - 1 degree Celsius.

The record is read, there are no objections.
(objections of the inspection participants)

Participants:
1. O.V. Povarnitsyn [Signed]
2.

Witnesses:
1. S.P. Volkov [Signed]
2. I.I. Symonchuk [Signed]

Inspection conducted by:

Stamp: SAME AS THE ORIGINAL
Investigator of the Investigations Unit of the Second Department of the Main Department of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed] B.E. Averin

Investigator of Avdiivka Police Unit [Signed] D.L. Kulikov

Annex 53

Signed Declaration of Viktor Ivanovych Palash, Victim Interrogation Protocol (19 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

Town of Avdiivka 19.02.2017

Questioning began at 13 hr. 00 min., ended at 13 hr. 07 min.

An Investigator of the Investigations Unit of Avdiivka Police Unit Major of police V.A. Polevoy, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 12017050140000125 of 18.02.2017, at the place of residence, at presence of persons who were explained the requirements of p. 2 art. 66 of the Criminal Procedure Code of Ukraine regarding their obligation not to share information regarding the completed procedural action […], having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic	Viktor Ivanovych Palash
2. Date of birth	09.11.1938
3. Place of birth	city of Avdiivka
4. Citizenship	of Ukraine
5. Education	higher education
6. Place of work (study)	does not work, retired
7. Place of residency (registration)	city of Avdiivka, 97 Pionerska St..
8. Tel.	[…]
9. Criminal charges	No
10. Council membership	No

11. Information about passport or other form of identification document the person has been identified.

The victim was explained that he was called for questioning in the criminal provision based on the fact of a terrorist act.

[…]

The victim was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony)

Victim [Signed]

[…]

I live at the above address with my wife, Palash Valentina Nikiforna, born in 1947. I also own a household located at: the city of Avdiivka, 126 L. Ukrainka (Parkhomenko) St., which I inherited from my parents.

No one lives in this household and I sometimes visit there.

On the night of February 17, 2017 to February 18, 2017, our area came under artillery fire.

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

On February 18, 2017, at about 10:00 am, I came to this household, where I discovered that an artillery shell had exploded in the yard.

The residential building was intact, however, as a result of the explosion, an adobe outbuilding located behind the residential building, a wooden shed and a wooden summer shower located behind the outbuilding were destroyed.

The summer kitchen, located to the right of the destroyed outbuilding, was also damaged - the entrance wooden door was knocked out in it and the wooden window located to the right of the front door was broken.

On February 19, 2017, on behalf of my wife, I reported the incident to the police hotline, and my wife had previously went to our children in the city of Pokrovsk.

I can't say for sure who carried out the shelling, but I think it was done by members of a gang, the so-called DPR.

I cannot name the exact material damage.

It is written correctly from my words, and read by me.

[Signed]

Questioned by: [Signed] V.A. Polevoy

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

Annex 54

Signed Declaration of Oksana Vladimirovna Povarnitsyna, Victim Interrogation Protocol (20 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD
of victim questioning

Town of Avdiivka 20.02.2017

Questioning began at 12 hr. 00 min.
Questioning ended at 12 hr. 10 min.

An Investigator of Avdiivka Police Unit Senior Lieutenant of Police O.L. Kulikov, having reviewed materials of the pre-trial investigation entered in the Unified Register of Pre-Trial Investigations under No. 12017050140000126 of 20.02.2017, at the place of residence, at presence of persons who were explained the requirements of p. 2 art. 66 of the Criminal Procedure Code of Ukraine regarding their obligation not to share information regarding the completed procedural action […], having complied with requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, questioned a victim:

1. Last name, first name and patronymic Oksana Vladimirovna Povarnitsyna
2. Date and place of birth 26.04.1973, Donetsk region
3. Nationality Ukrainian
4. Citizenship of Ukraine
5. Education Vocational
6. Place of work (study) AKKhZ
7. Type of work and position boiler stoker driver
8. Place of residency (registration) Donetsk region, city of Avdiivka, 57 Chistyakova St., cell phone […]
9. Criminal charges No
10. Council membership No
11. Information about passport or other form of identification document […].

[…]

The victim, O.V. Povarnitsyna, was warned about the criminal liability based on art. 384 of the Criminal Code of Ukraine (Known false testimony) [Signed]

Based on the asked questions, the victim, O.V. Povarnitsyna, provided the following testimony: I have lived at the above address all my life. I currently live with my spouse, Aleksander Viktorovich Povarnitsyn, born in 1971. Thus, on February 18, 2017, I was at home with my spouse. Approximately at 22:30 on February 18, 2017, during the shelling there was a direct hit at the territory of my household, namely the garage, which is located in my yard, more specifically, on the roof of the garage. I can add that there was an Alfa Romeo 164 car, state number AN1705-MI in the garage. I can also add that 12 windows were broken and the roof of the house was shuttered.

It is written correctly from my words.
I have read it. [Signed]

Investigator [Signed] O.L. Kulikov

Stamp: SAME AS THE ORIGINAL
Investigator of the Investigations Unit of the Second Department of the Main Department of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed] B.E. Averin

Stamp: SAME AS THE ORIGINAL
Investigator of Police Unit of the Second Department of the Main Department
of the Security Service of Ukraine in Donetsk and Luhansk Region
[Signed] B.E. Averin

Annex 55

Signed Declaration of Viktor Ivanovych Palash, Property Inspection Protocol
(20 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RECORD OF INSPECTION
of the place of event

The city of Avdiivka 20.02.2017
Inspection began at 07 hr. 10 min
Inspection ended at 07 hr. 50 min

Temporary acting Investigator of Avdiivka Police Unit, of Pokrovske Police Unit of the Main Department of the National Police on Donetsk region, Major of Police V.A. Polevoy, having complied with articles 104, 105, 106, 234, 237, 223 of the Criminal Procedure Code of Ukraine, in presence of witnesses:
1) Mykola Ivanovych Kiyko, born on 29.11.1962, who lives in the city of Avdiivka, 17/116 Molodizhna St.,
2) Olha Anatoliivna Kiyko, born on 206.08.1964, who lives in the city of Avdiivka, 17/116 Molodizhna St., who were explained their rights and responsibilities in accordance with articles 11, 13, 15, 2223 of the Criminal Procedure Code of Ukraine

[…]

With participation of the owner (user) of a facility of other personal property Viktor Ivanovych Palash

[…]

It was established during the inspection that: the place of inspection is the household at the address: Donetsk region, the city of Avdiivka, 126 L. Ukrainky (Parkhomenko) St., owned by V.I. Palash.

The perimeter of the household is fenced with a wooden picket fence. Entrance to the territory of the household is through a metal gate.

In the yard of the household there is a 1-story residential house, which is not damaged. Behind the residential house there is an outbuilding, a wooden barn, and a wooden summer shower an outbuilding destroyed by an artillery shell. To the right of the ruined outbuilding there is a 1-story summer kitchen with damaged wooden front door and a window to the right of the entrance.

As explained by V.I. Palash, the destruction of the household occurred on the night of February 17, 2017 to February 18, 2017, as a result of artillery shelling and an artillery shell having hit the yard of the household.

The inspection was conducted in cloudy, dry weather, under natural light.

1) [Signed] 2) [Signed]

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

Nothing was removed from the scene.

No statements or comments were received during the inspection.

The record was read aloud, it is written correctly.

Signatures of witnesses: 1) [Signed]
2) [Signed]

Participant: [Signed]

The record was prepared by temporary acting Investigator of Avdiivka Police Unit, of Pokrovske Police Unit Major of Police [Signed] V.A. Polevoy

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

PHOTO CHART
to the Record of inspection of the place of event

***Photo No. 1*.** Entry to the territory of the household located at the address: Donetsk region, the city of Avdiivka, 126 L. Ukrainky St..

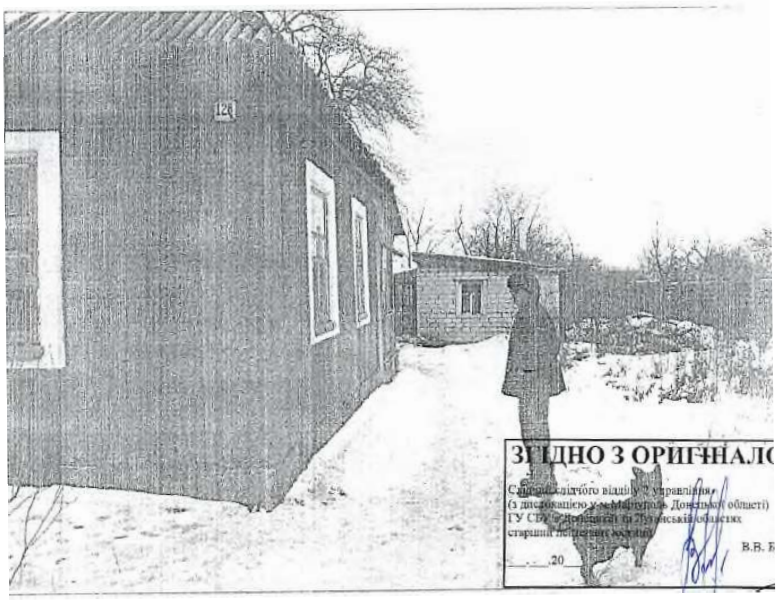


Photo No. 2. The yard of the household (the residential house is located on the left).

[Signed]

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

Photo No. 3. The destroyed outbuilding, located behind the residential building.

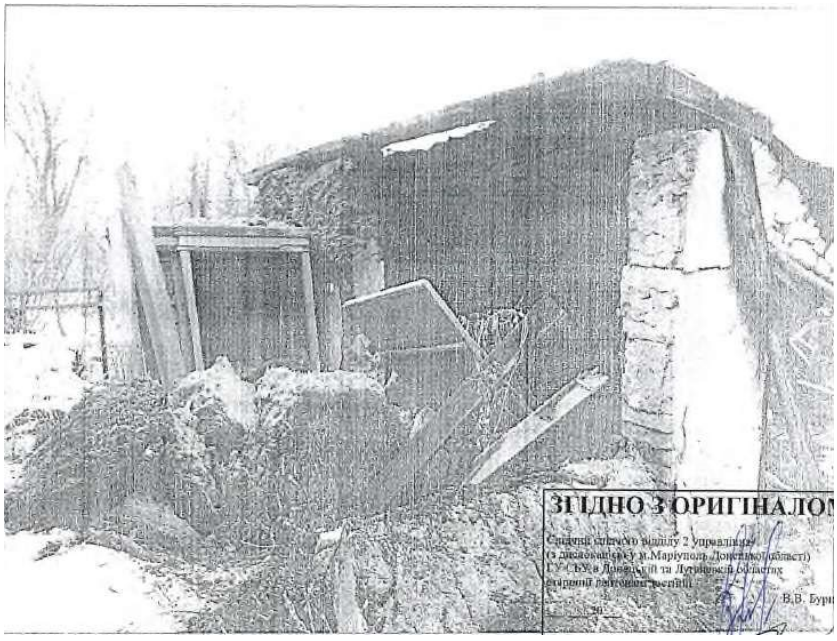


Photo No. 4. Similar to photo No. 3.

[Signed]

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

Photo No. 5. Similar to photos No.No. 3-4.

Photo No. 6. Destroyed wooden barn and summer shower, located behind the destroyed outbuilding.

[Signed]

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

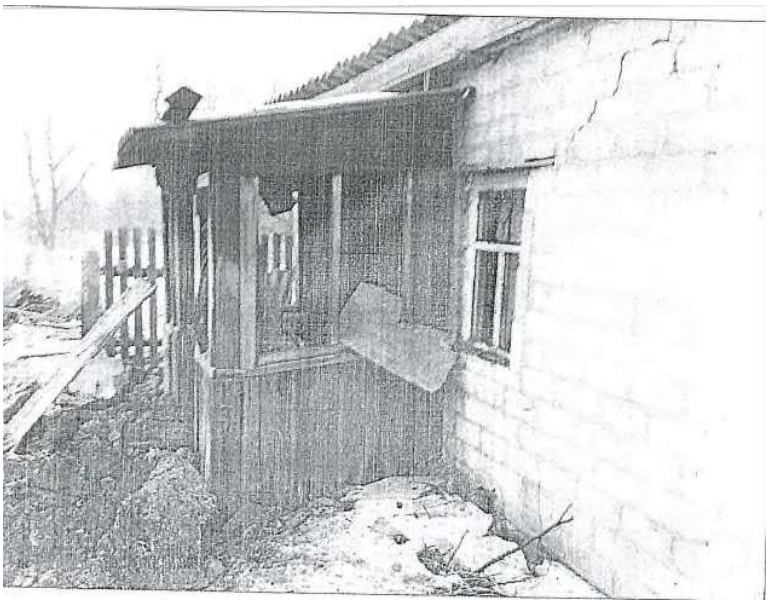


Photo No. 7. Destroyed entry to the summer kitchen, located to the right from the destroyed outbuilding.

Photo No. 8. Similar to photo No. 7.

The photo chart was prepared by
temporary acting Investigator of Avdiivka Police Unit,
of Pokrovske Police Unit Major of Police [Signed] V.A. Polevoy

Stamp: SAME AS THE ORIGINAL
Investigator of the 2nd Investigations Unit
(located in the city of Mariupol of Donetsk region)
of the Main Department of the Security Service of Ukraine
in Donetsk and Luhansk Region
[Signed] V.V. Burykin

Annex 57

U.N. Police, *Peacekeeping PDT Standards for Formed Police Units* (2015)

Checkpoints

Background

Members of an FPU are likely to have to carry out checkpoints in both executive and non-executive missions, in the former, as part of their general duties in maintaining the peace and in the latter in their role of protecting UN Staff and facilities where checkpoints will be situated at the entrance to UN buildings to control access.

There are various different types of checkpoint, from those that are fixed to those that are temporary, and they need to be capable of dealing with pedestrians or vehicles or both. The modules on searching suspects and searching vehicles should be used as revision for this topic.

Aim

To familiarize the FPU members with planning and safely conducting checkpoint operations

Learning outcomes

At the end of this module the students will be able to:

- Explain the goal of a checkpoint
- Identify tactical considerations
- Describe the different zones of a checkpoint
- Conduct vehicle and pedestrian checkpoints
- React to incidents at checkpoints

Training sequence

The material in this module is designed to be delivered over a 40 minute classroom based theory lesson followed by 4 hours of practice, which should include at least one hour for assessment. This is on the assumption that the students have received no previous training in this subject.

Duration

Minimum Session time	Lecture/Presentation	Question/Assessment	Session Activities
4 hours 40 mins	40 mins	1 hour	3 hours
Additional Options	Mission Specific	Optional film	Optional activity

Methodology

This module contains a PowerPoint theory presentation to explain and show the various techniques, however, the majority of this module should be taught in a practical manner using the format:

- Explanation by the instructor
- Demonstration by the instructor
- Imitation by the students (with instructor correcting where necessary)
- Practice by the students until the technique is perfected

At the end of the final stage the instructor will be able to assess if the student is competent in the technique having carried out continuous assessment throughout the preceding lessons.

The instructor should inform participants of the content, format and timing. Knowing what to expect, participants can improve their ability to focus on the subject and benefit better from the session.

- Theory of barricades (40 minute classroom lesson)
- Practice (4 hours of practical lessons)

A number of the practical periods should be conducted in the form of exercises which should be carried out in as realistic situation as possible with the use of other officers acting as pedestrians and road users

Instructors are encouraged to add practical examples and mission specific information related to the specific deployment of participants, if known.

Instructor Profile

This module is best presented by an instructor who has practical experience in peacekeeping operations and who could share his/her experience with the group. He must be practiced and skilled to be able to demonstrate the technique correctly. If there is more than one instructor, at least one of them should have practical experience as trainer in either domestic policing or a peacekeeping mission.

Instructor Preparations

Required Readings

· DPKO Policy on Formed Police Units in United Nations Peacekeeping Operations
· FPU Training Handbook
· Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

General Preparations

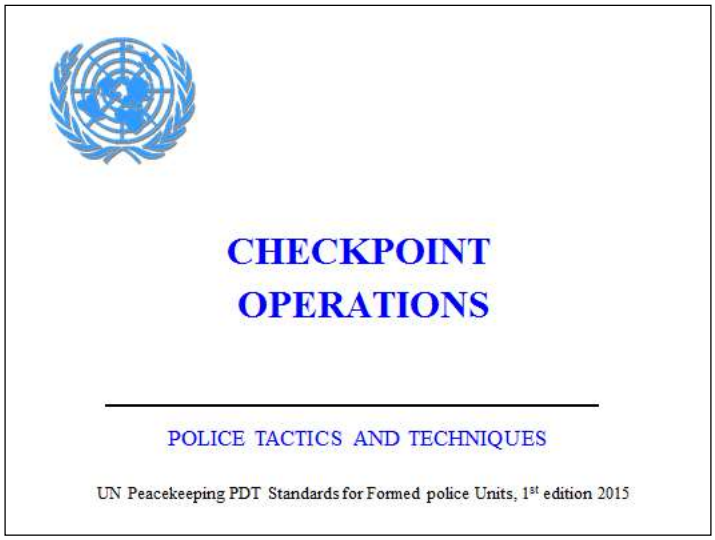
Equipment:
1. Computer and PowerPoint slides for lesson 1
2. Projector and Screen for lesson 1
3. Vehicles

Training Area:
The initial lesson should be carried out in the classroom; however subsequent lessons will need a large open area where students can construct checkpoints as an FPU section and platoon. Once the basic tactics have been grasped by the students the FPU will need to practice their tactics in a more urban situation, for this purpose a 'ghost town' or public order village is ideal.

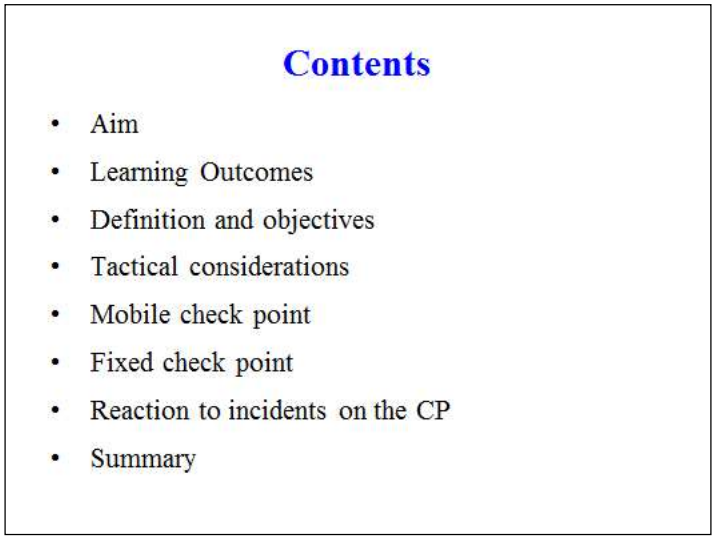
Session notes

Lesson 1 – Checkpoints (Theory)

Contents:



Slide 1



Slide 2

Aim

To introduce the FPU to planning and safely conducting checkpoint operations

Slide 3

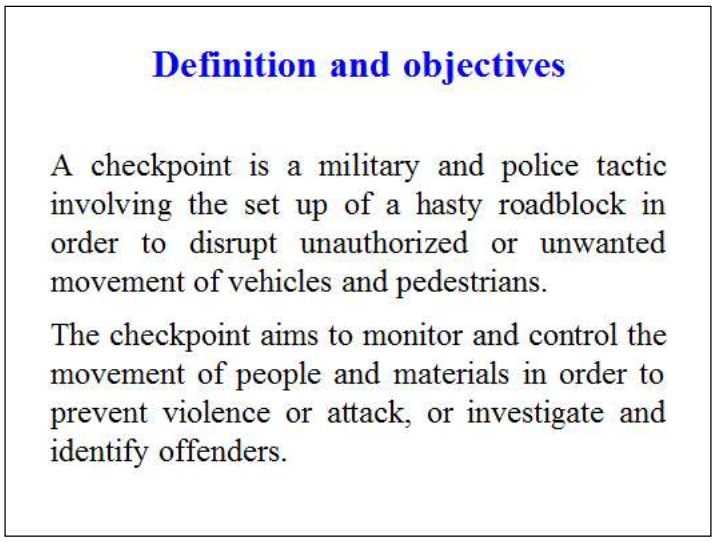
Learning outcomes

On completion of this module the participants will be able to:

- Provide a definition and the goal of a checkpoint
- Identify tactical considerations
- Describe the different zones of a checkpoint
- Conduct vehicle and pedestrian checkpoints
- React to incidents at checkpoints

Slide 4

Definition and objectives

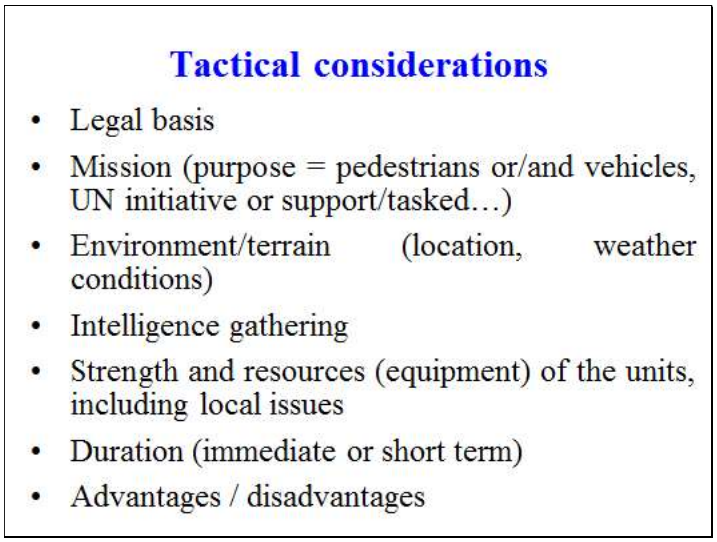


Slides 5 and 6

A checkpoint is an area where vehicles and/or persons are stopped, identities are verified, possessions searched, and a decision is made whether or not to detain the persons/ vehicles or to allow them to pass. Checkpoints aim at controlling an area, to allow a "safe area" to protect from outside influence, to deny hostile intelligence gathering opportunities and to be effective they must not be able to be bypassed.

Vehicle or pedestrian can be run separately or jointly, dependant on the reason for their being constructed. In all UN missions they will normally be at the entrance to major UN facilities and will aim to protect the building from attack therefore they will be for both pedestrians and vehicles. Trainees 'attention should be drawn to the fact that references should be made to the UN DPKO/DFS interim SOP on Detention and, to the SOP on Arrest and Detention developed at the mission level.[1]

[1] **Detention in United Nations Peace Operations:** Approved by: Alain Le Roy, USG/DPKO, Approval date: 25 January 2010



Slide 7

When considering the use of a checkpoint the Commander will have to consider various factors that will affect the lay out and will have a bearing on if it is a suitable location.
The checkpoint is set up in order to control an area or to create an interposition layout between two opponent groups. Its goal is to stop the freedom of movement of goods and persons.
The establishment of the checkpoint may be thus in contrast with one of the most fundamental liberties and has to be realized in the framework of the mandate or of the local laws (when in support of local security/defense forces).
A checkpoint can be only set up upon the initiative of the UN police/military forces when it aims to control the accesses of a UN base and to protect its personnel.
It can also be set up without the involvement local security forces if the UN mandate recommends it and when the local security forces are not present in the area of operation or are not operational (case of CAR or Kosovo, Mitrovica Bridge).
The unit commander should conduct a terrain study to identify avenues of approach. This also implies setting up the checkpoint with traffic going uphill to slow down vehicles as they approach, or at crossroads, for a similar reason, and to locate them on a one-way street. It is also important that the CP is far enough away from sensitive areas and where possible Entry/Exit routes should be located side by side. Conditions, visibility and risks are different at night; therefore the Commander must be aware of the procedures for night operations.

Majority of the information about dangerous or wanted people will come from the JMAC (Joint Mission Analysis Centre) in the form of photos, guidance, and daily register book. This register book should be kept at the checkpoint. The access to the computer database is critical either directly or by radio.

The FPU Commander must be aware of the advantages and disadvantages of conducting Checkpoint operations.

It will be an obvious show of force to the local population and at the same time will give the officers conducting the checkpoint to gauge the attitude of the local population, to both the UN' s presence and also to the use and sitting of the checkpoint. As well as controlling access to an area, it also has the ability to gather intelligence, both from the local population and also by collating the statistics and details of the vehicles and pedestrians passing through.
However the disadvantage is that they are resource intensive particularly if they are to be staffed 24 hours a day. They may be unpopular with the local population and therefore become a tangible target for local protest and they may be vulnerable to attack, either by crowds of demonstrators of by terrorist or criminal gangs.

Another consideration is how the unit's resources are deployed. Crew served weapons should be emplaced to oversee the checkpoint, and Snipers can also be deployed for the same purpose. Once in position the unit should conduct security patrols in the locality to ensure that the Checkpoint is not being reconnoitred or targeted. The defence of the checkpoint should be assessed on and improved on a daily basis.
The strength of the FPU and the equipment are to be available and in accordance with the operation.
The following equipment is necessary:

- Pre-signalisation means (road signs, traffic lights…)
- Fixed and heavy road blocks for the deceleration zone
- Mobile road blocks to avoid the escape from the checkpoint area (dragon teeth, barbed wire, vehicles…)
- Armoured vehicles with crew machine guns ready to react to any vehicle forcing the checkpoint
- Search equipment (mirror, projectors, torch lights, handcuffs…)

The positioning of fire support elements, the armament of the FPU and their shooting capacity, the distance between the various elements of the checkpoint, lighting and weather conditions are also to be considered.

The strength of the unit should be proportionate to the different positions to be filled on the checkpoint.
The checkpoint comprises at least 5 different types of element:

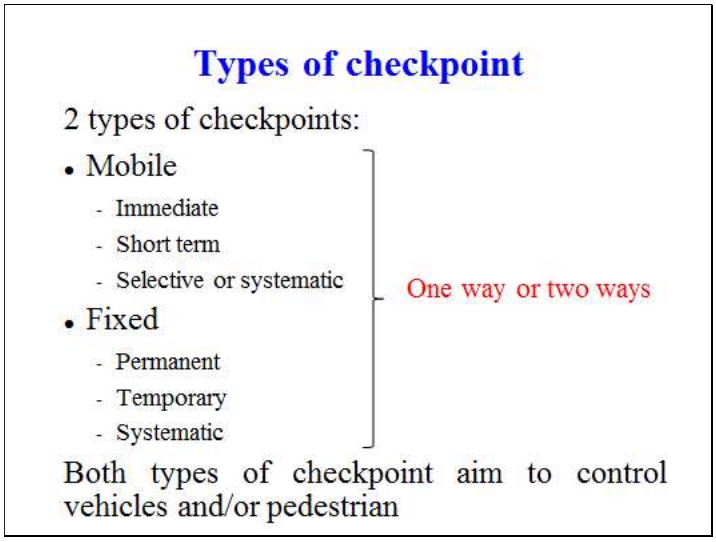
- Pre-signalisation element
- Selection element
- Control element
- Mobile protection element
- Intervention element (reaction)

The commander needs to be aware of local issues that may affect the checkpoint and it is always beneficial to have officers or interpreters that speak the local

language, especially if it is different to the Mission language.

Distances for observations have to be lengthened, the number of people checked at the same time lowered and a strict allocation of watching tasks per officer assigned in order to avoid people overwhelming the officers guarding the check point.

Having a lot of light on a checkpoint is important but it is almost as important as to light up the surrounding areas, in order to avoid people sneaking in or out of the deployment.



Slide 8

There are two types of checkpoint: mobile and fixed.

The mobile checkpoint responds to an immediate operational need and can be removed immediately after the execution of the operation without having an impact on the security of the concerned area, the population living in it and the personnel deployed for the operation.

An immediate CP is one that is set up under dynamic circumstances, following a serious robbery when the perpetrators are thought to still be making their escape.

Short term CPs may be set up to combat crime, e.g. through collecting intelligence related to a certain road used by criminals or terrorists.

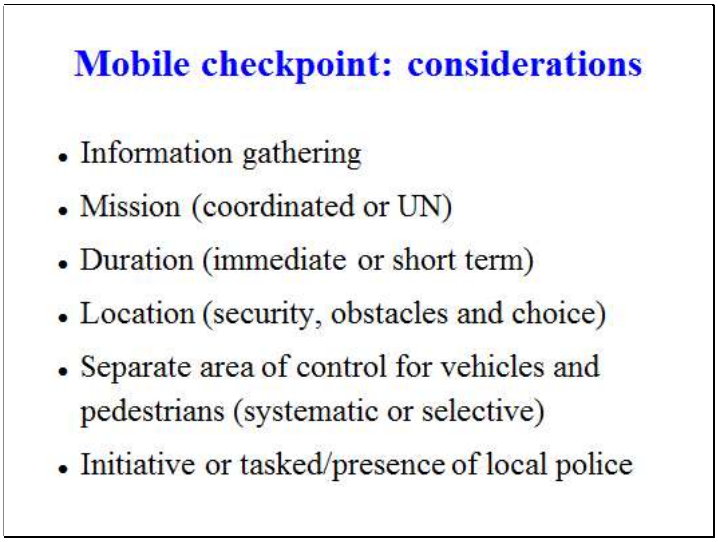
A selective checkpoint is a random control of vehicles and/or people based on intelligence or upon the initiative of the selection element.

A systematic checkpoint will be a permanent or semi-permanent structure encompassing all the principles already discussed. It will allow for a complete and comprehensive check of all persons and vehicles.

A fixed checkpoint can be permanent or temporary and it takes places where a decision has been taken to carry out checks on a regular even daily basis. As a result, it can be permanent, (as for instance to deal with a division between ethnic groups or the entrance to an IDP camp), or it may be set up to control the entry of persons into a restricted area. If permanent, then it will be designed according to the specifications later explained in this lesson. Temporary CPs can be set up when required. If it is in a regular location and part or all of the specifications listed can be built to accommodate the CP when it is activated.

Any CP can be in either or both directions; this will depend on the reasons for placing the CP and the circumstances at the time. The method of conducting any CP will be similar, although there are some factors that differ between the two types of CPs in terms of duration and equipment.

It will normally take at least a Platoon to operate a systematic Checkpoint.



Slide 9

These are normally set up as a result of intelligence received that certain activity will happen at a certain point at a certain time. However, they can also be set up in insecure areas to reassure the local population that the UN is in control of the area.

In case of spontaneous threat or sudden event triggering security threats, a mobile checkpoint can be set up to respond to this threat. The decision may be taken at the mission's level in case of threats against UN premises or personnel or coordinated when intervening in support of the local security forces. One example from the instructor: CAR - checkpoint established in order to control the road between the IV and VII district; attacks were organized by Anti-balaka living in the IV and looting houses in the VII. The local security forces did not have the capacity to assign to this

task.

As for the duration of the checkpoint, please refer to Slide 8.

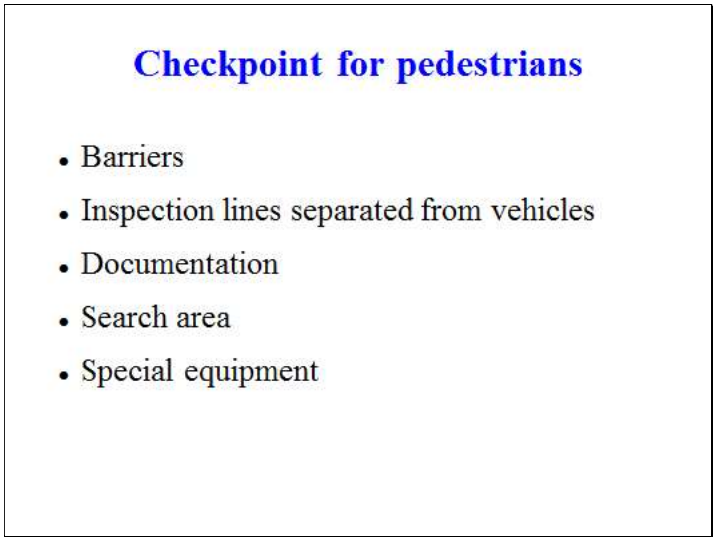
When setting-up a checkpoint, utmost importance has to be given to the location which must always ensure the security of personnel and the control of the whole sector. As there will not be the same facilities and equipment available to set up the checkpoint everywhere, the commander will need to place it in a location where a person or vehicle cannot easily escape, preferably using narrow streets to funnel pedestrians and vehicles. The natural flow of people and traffic will determine when and where to set it up (intelligence based).

Most of the mobile CPs aim at controlling vehicles. In case of control of both pedestrians and vehicles, separate areas of control, search and retention should be foreseen and set up.

It will be tasked by Chain of Command and pre-planned during the order. The time and location should be carefully considered. These will depend on the circumstances, but there is little point in holding a checkpoint on a quiet road in the countryside in the middle of the night unless there is specific intelligence that indicates something will happen.

As for the initiative, in executive UN missions or while supporting local security forces in non-executive UN missions, the Chief of patrol can decide to establish a mobile checkpoint in order to prevent delinquency and crime and to detect possible offences, including offences to traffic rules.

Duration of Checkpoint set up by initiative is usually no longer than 30 min to remain efficient.



Slide 10

Pedestrian checkpoints are a good way to control movement, gather intelligence and

deter criminal or terrorist behaviour. The principles applied to Pedestrian checkpoints are similar to those for a VCP. Where the checkpoint is on a road and in conjunction with a VCP it is important to separate pedestrians from vehicles to ensure the safety of those crossing through. One of the best ways to do this is with barriers to regulate flow. The level of insulations of the two inspection lines is contingent of the level of threat, (is there a terrorist risk, with suicide bombers or not…)

Keep numbers of people in line to a minimum, where possible and it may be necessary to establish more than one inspection line dependant on the amount of pedestrian traffic, this may also relate to the time of day.

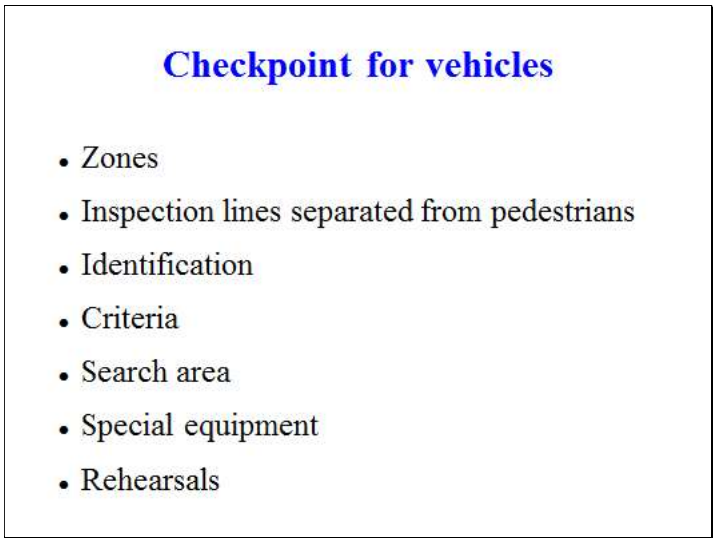
If possible have a sign or communicate to those approaching the type of documentation that the police will need to see to enable the public cross through.

There will need to be partitioned or isolated areas for detailed personnel searches and search teams will have to be nominated (male & female). The search is always performed in a methodical way and with high vigilance.
Please refer to the lesson on body search techniques.
Nevertheless, police officers may face two types of situation:

- when performing the body search in order to “dissuade” any person to cross with dangerous or illegal objects;
- when performing a “detailed” body search in a dedicated room (remove clothes, check all of them…).

Special equipment such as, metal detectors or arches, flexi cuffs may be useful for securing detained persons, and gloves (heavy duty, reinforced or rubber).

A reserve party can also be organised, in order to address either specific security matters or a sudden increase of people wanting to cross the check point.



Slide 11

Particularly in a hostile area, security of the checkpoint is critical. To this end, cut off and security teams are positioned covertly. The unit must ensure all round security at all times and conduct isolation and security patrols. In a non-executive mandated mission, they must be conducted alongside the local police.

In order to ensure the security of UN personnel, vehicle checkpoints must be set up respecting the defined zones as described in Slide 12.

Checkpoint should be set up so that approaching vehicles cannot see it until they pass the cut off teams. Obstacles or parked vehicles should be set up to funnel and slow down approaching vehicles. As already mentioned, vehicle inspection lines must be separated from pedestrians.

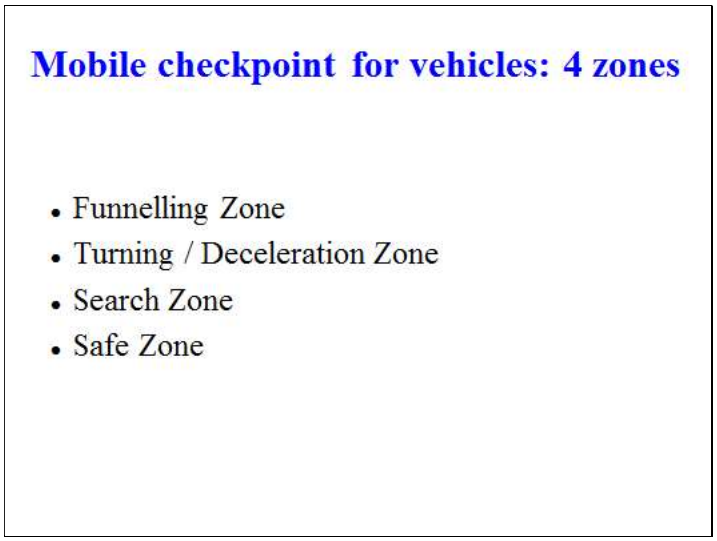
A Section leader will be nominated to question the drivers of vehicles and they will be accompanied by a Buddy Team to carry out the searching. This should be a male & female team to deal with both sexes. Vehicle occupants should exit vehicle and also be searched. The search teams should always be professional and be careful not to escalate the situation, particularly when in a hostile area.

As mentioned for pedestrian CPs, specific equipment should be made available to conduct vehicle CPs.

The criteria for vehicles to be searched will come from Commander/HQ and will normally be dependent on intelligence received. A random, snap or short term checkpoint is more likely to be selective with regard to the vehicles /personnel stopped and this will normally be intelligence based. This, in turn, allows for greater through put.

Failure of a vehicle to stop will trigger Use of Force. The level of force will be proportionated to the level of threat.

The FPU must be trained and competent in carrying out short term or hasty CPs, the conduct of rehearsals prior to setting up the checkpoint is essential.
As discussed earlier, these types of checkpoint require practice so that a routine is established for searching; screening will be for specific threats and interference with daily activity of the local population will be kept to a minimum.
Consequently, a smaller number of trained operators will be necessary.



Slide 12

Natural or artificial obstacles should be used to funnel vehicles into one lane, signs should be placed forward of the checkpoint to advise drivers. Once the vehicles arrive in the funnelling zone there should be no way out.

The next zone contains barriers to force vehicles to decelerate, making slow hard turns what implies that the obstacles must be capable of stopping a vehicle. The following can be used for this purpose: Downed trees, Dragons Teeth, Debris, Large rocks, Concertina Wire, Abatis, Tires & Road Cratering.

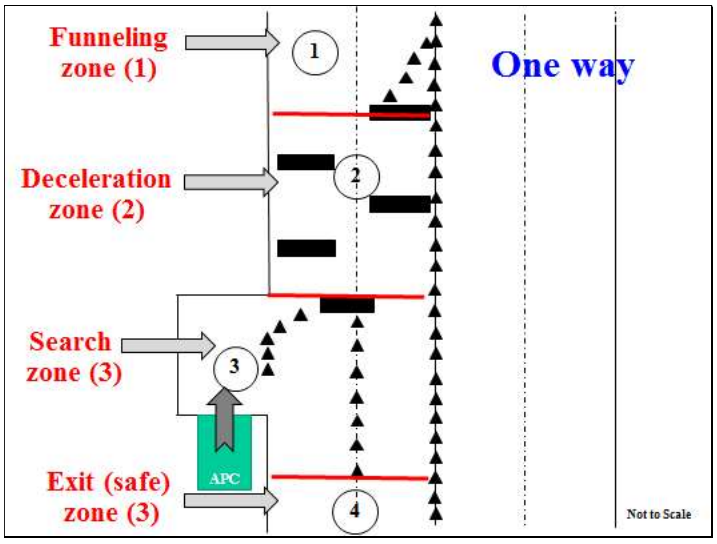
The vehicle that arrives at the Search Zone where vehicles can be directed out of the main lane to a secure area where they can be checked searched and detained if necessary. Once in the Search zone, there should be a blocking obstacle to deny entry/exit, so that once the vehicle is in the Search Zone it cannot escape. Vehicles should be isolated from others during the search and an over-watch position with a crew served weapon should be set up to monitor all vehicles in the Search Zone.

The Search zone is further subdivided into three subordinate areas, a Personnel search zone, a Vehicle search zone and a Reaction force zone. For all of these there will be both police & civilians so the potential for cross fire and all round security are key considerations.

There should be the ability to rapidly remove detainees and vehicles if necessary and there must be proper coordination between the zones and a reporting procedure to the Checkpoint commanding officer.

Finally there is a Safe Zone; this is for the officers deployed on the checkpoint duties, and this is the assembly area for the VCP and an area where the staff can stand down, eat or sleep in relative security.

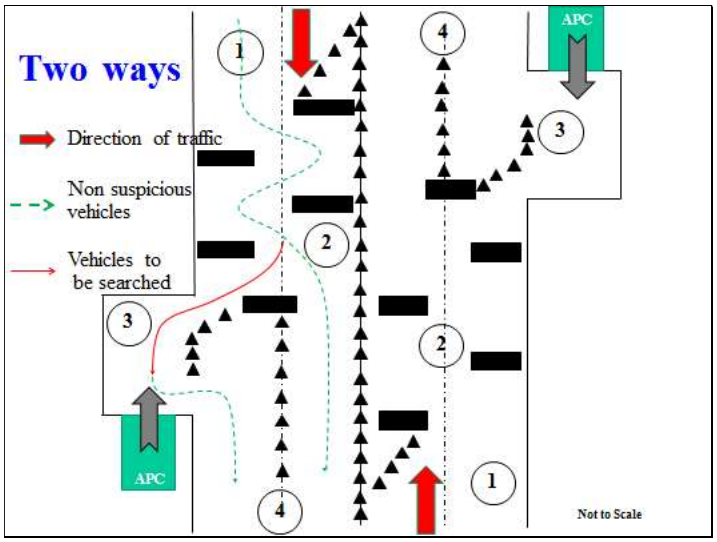
Slide 13



Slide 14

Slides 13 and 14 illustrate the principles highlighted in the earlier slides to show a layout suitable for a checkpoint on one ways.

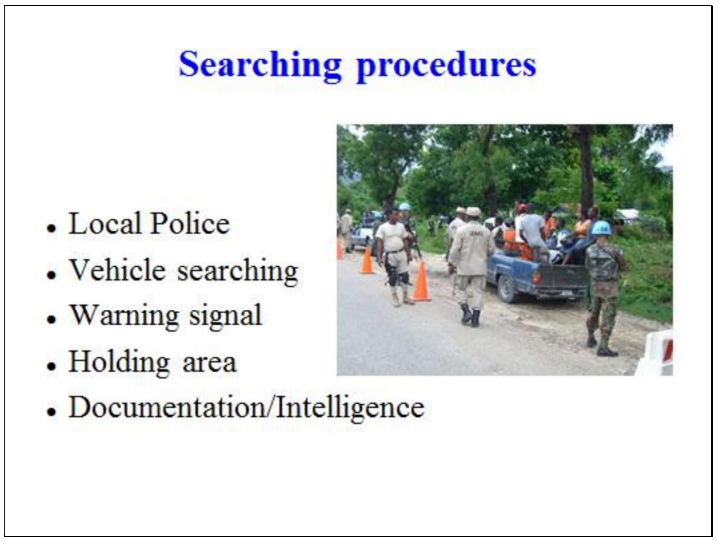
Instructors note: The pictures are not to scale and this should be pointed out, particularly the 'Safe Area' which would normally be in a secure location away from traffic lanes or other zones. However, it has been shown on the diagram as it is an important feature of the Checkpoint.



Slide 15

Slide 15 illustrates the principles highlighted in the earlier slides to show a layout suitable for a checkpoint on two ways.

Instructors note: The pictures are not to scale and this should be pointed out, particularly the 'Safe Area' which would normally be in a secure location away from traffic lanes or other zones. However, it has been shown on the diagram as it is an important feature of the Checkpoint.



Slide 16

The local police must be present in non-executive mandates as it is unlikely that UN Police will have the mandate to stop or search vehicles without them unless it is for accessing a UN building.

The principles of searching vehicles have been covered in an earlier lesson,

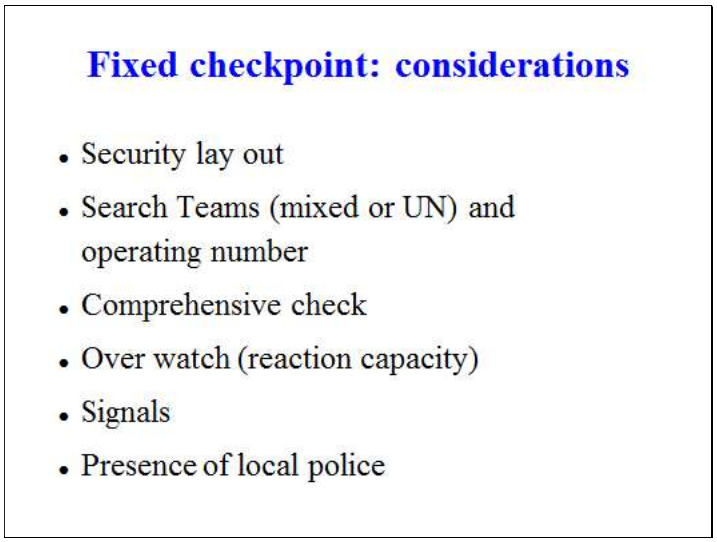
however as a reminder:

- Have driver shut off engine and release the hood (bonnet) and trunk (boot).
- Tell driver to get out of the vehicle, the driver must be present during the search of the vehicle. Have the driver keep his/her hands visible.
- Remove other occupants of the vehicle; they should be taken and watched to a holding area while search is conducted.
- Use mirrors to look into difficult areas.

The Checkpoint officers should have a signal to alert the rest of the team that the occupants of the vehicle will not notice if they become suspicious or find something illegal so that the remainder of the officers is alert.

Ask for drivers ID and relevant documents, details of which should be recorded, much intelligence can be gained from routine stops at checkpoints.

If a suspect is detained, do not let the passengers take the vehicle; it should be impounded, by the local police if in a non-executive mandate. However, once the vehicle is cleared, allow occupants to get back into the vehicle and proceed and thank them for their cooperation.



Slide 17

The Checkpoint team must be rotated on a regular basis to prevent complacency. The unit must also deploy for all contingencies therefore they must be able to defend themselves from attack by terrorists and insurgents as well as having the capability to defend the checkpoint from less violent protest such as an angry local mob. The availability of riot control measures is as important as the deployment of heavy weapons. The need for rehearsals has already been highlighted.

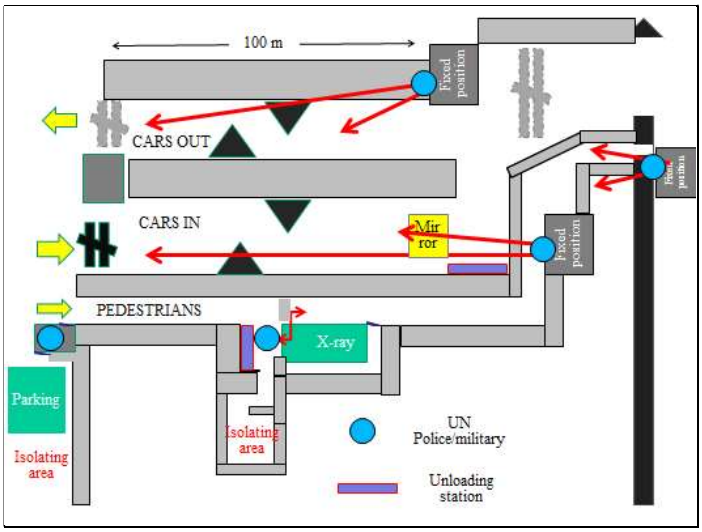
According to the nature of the mission, searching team will be made of mixed UN-local police personnel or UN personnel only, as this is the case for UN premises. All

vehicles and pedestrians approaching the checkpoint must be checked. Presence of local police representatives is essential in a non-executive mandate, in order to provide a supportive legal framework to the operation.

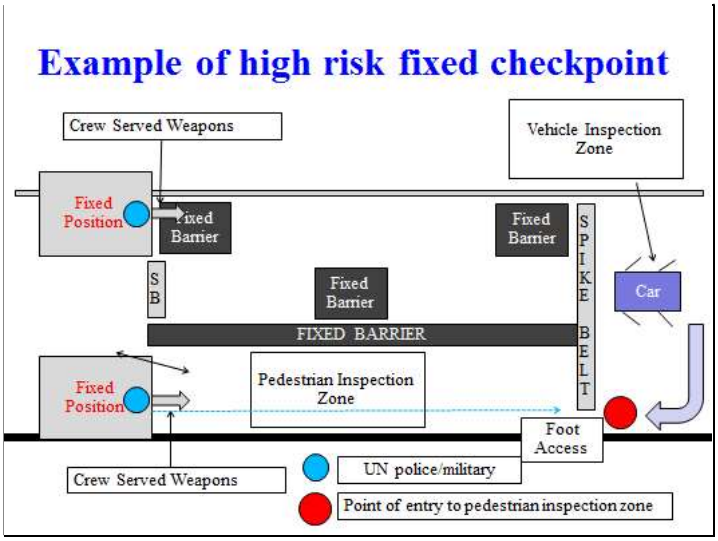
Operating officers must be aware of the procedures to follow in case of unauthorised vehicles approaching the CP.

Over watch is vital to the security of any systematic or permanent checkpoint. It must be able to cover the entire Checkpoint since permanent checkpoints are an obvious target for criminals and terrorists.

Signals must be established, as already covered in this lesson.



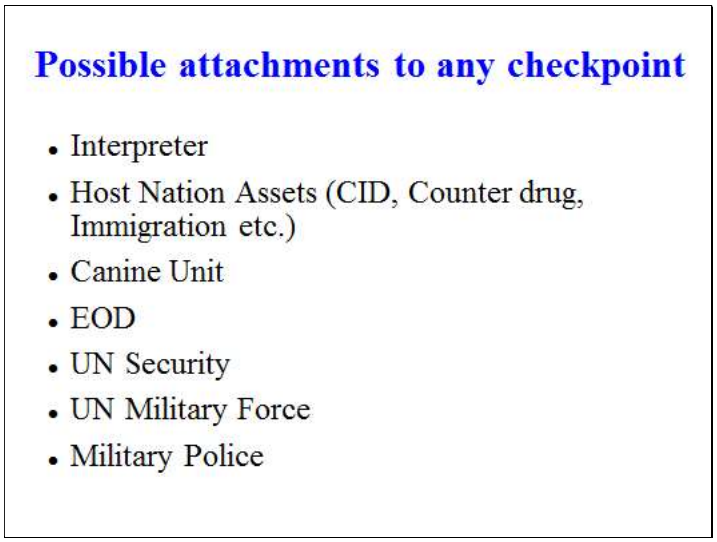
Slide 18



Slide 19

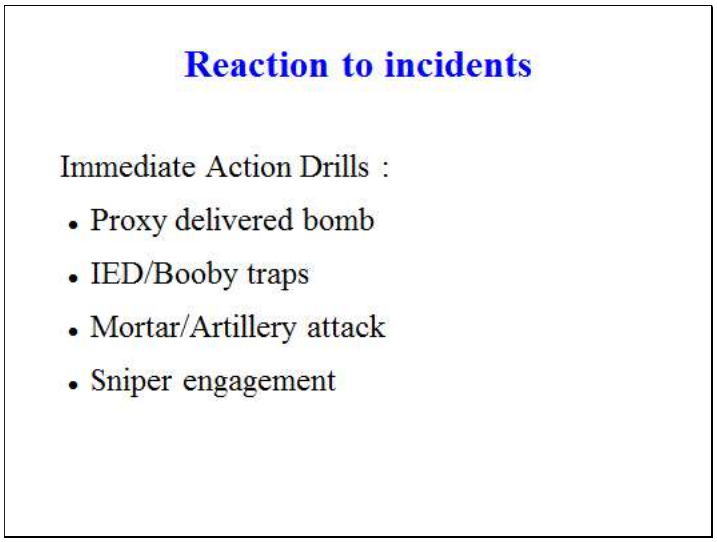
- Fixed Positions with Crew Served or APC

- Single point of entry and exit for pedestrian
- Rolling or movable dragoon teeth or spike belt
- FPU Direct drivers and pedestrians to approach inspection point while vehicle remains fixed
- Vehicle stopped, occupants exit and all doors, hood, trunk remain open
- FPU member with driver returns to examine vehicle and then authorizes it to continue through checkpoint
- At no point do UN FPU personnel remain in between the fixed positions and the vehicle inspection zone unless required to do so. Extremely vulnerable to attacks



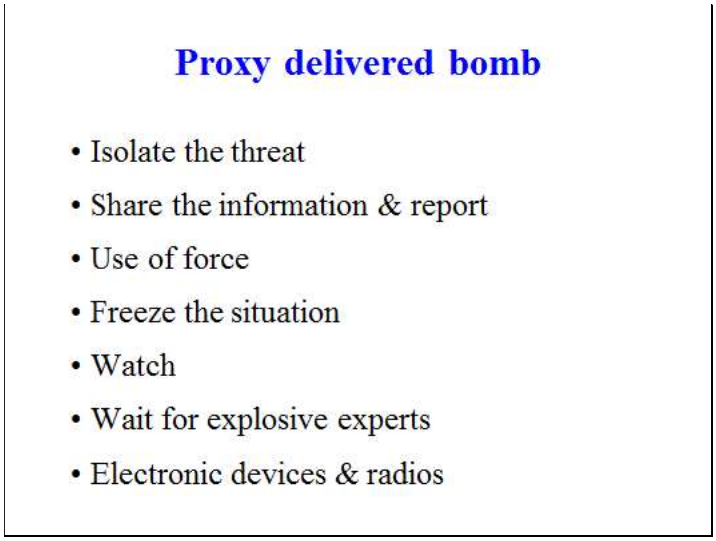
Slide 20

Slide 19 gives a list of the potential attachments that should be considered by the commander.



Slide 21

There are a number of incidents checkpoints are at risk from. The following Immediate Action drills (IAs) are suggested.



Slide 22

For example, a hostage or innocent party has been told to deliver a bomb, normally in a vehicle, although it could be strapped to the individual or in a holdall or suitcase in his/her possession.

Firstly direct them to a safe area if possible or isolate the threat, ensuring that if the bomb is detonated there will be the least possible danger to other members of the Checkpoint and members of the population crossing through.

Sharing information is a top priority to all people on the CP and report up the chain of command to Headquarters. It will alert it in order to start the process of obtaining explosives experts, bomb disposal teams etc. It is also possible that such attempt would be part of a larger scheme which may require Mission's leadership to increase the overall level of alert.

If a suspect does not comply with the orders, use of force can be applied. If the officer believes that they and others in the checkpoint are under mortal threat then deadly force can be used. However, the officer using it will have to justify his action at subsequent enquiries or trials.

Freeze the situation, once the suspect person/vehicle/package is secured, do

nothing, do not open any compartments to release the driver, don't allow him/her to touch anything and keep his/her hands visible.

Watch around if any other suspect situation is developing, the proxy may be a diversionary tactic, or it may be set off by a third party who will need to be able to see what is happening (example of camp entrance in Kidal: checkpoint guarded by the military component and attacked by an VBIED).

Once everything is isolated, wait for the explosive experts.

Do not use any electric/electronic devices close to the person/vehicle (no cell phone, radio etc.) as most of these devices are set off by radio control or mobile signal, which can be confused with the officer's radio or mobile phone.

It is also possible to activate radio jammers on the checkpoint, in order to avoid the bomb to be detonated from "outside" through radio signal (cell phone…).

Slide 23

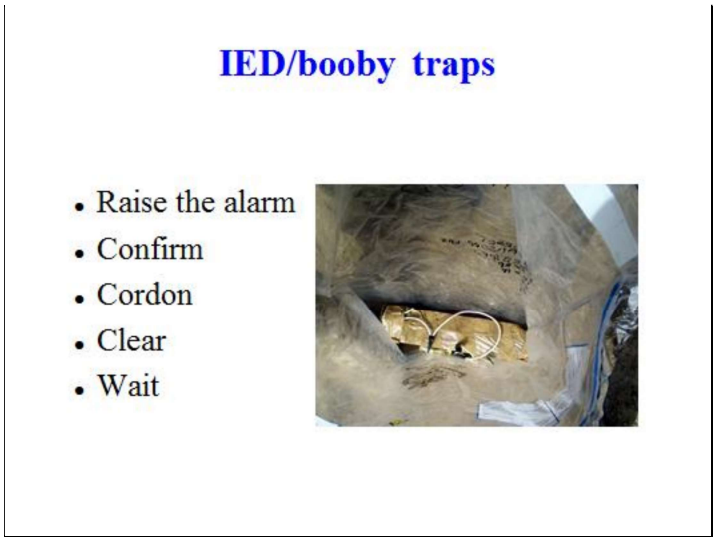
Fixed checkpoints become targets for rebel units, terrorists and insurgents. When they have the capability, they may use light or heavy artillery to shell them from a distance. There is little the FPU can do in this instance other than reduce the risk as much as possible.

Initially, all personnel should seek cover wherever possible. The highest risk is from shrapnel, sandbagged emplacements are safest. Stay in position until directed otherwise.

Raise alarm, report up the chain of command and if possible note the direction from which the shelling is coming. If it is close enough and the FPU has the resources then deploy a unit to counter attack, however this must be coordinated with the HQ

and the Commander will also need to consider if the shelling is just the start of a major attack on the checkpoint in which case they will need to keep all their officers with them.

Any wounded must be given first aid and evacuated as soon as it is safe to do so.



Slide 24

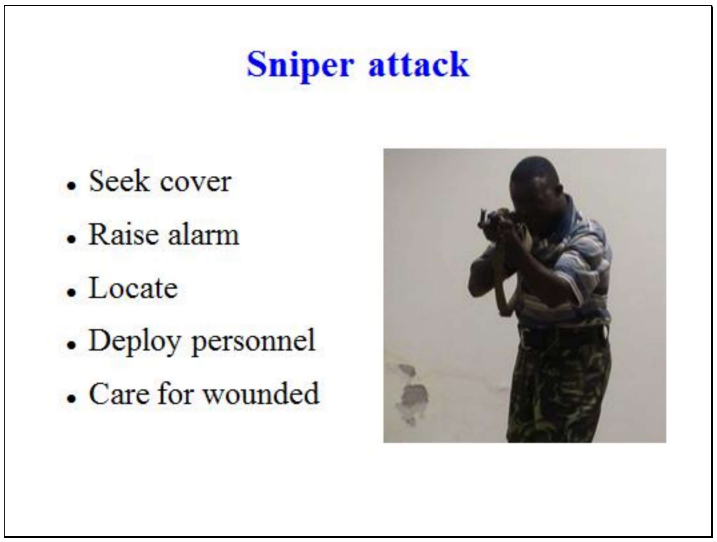
IEDs may be found on persons being searched or, if the checkpoint is occasional, they may be left in the form of booby traps for the next occasion that the unit move into the CP.

Firstly raise the alarm, freeze the situation and isolate the potential threat. Inform the chain of command and notify headquarters.

Confirm the device as safely as possible, note a description including size and colours, letters, figures… as this will be useful information for the bomb disposal unit. Ensure that it is in a secure location where it will do as little damage as possible if it is initiated.

Cordon off the area to a safe distance; this will depend of the size of the IED and all personnel should be moved to safer areas.

Await the arrival of bomb disposal units.



Slide 25

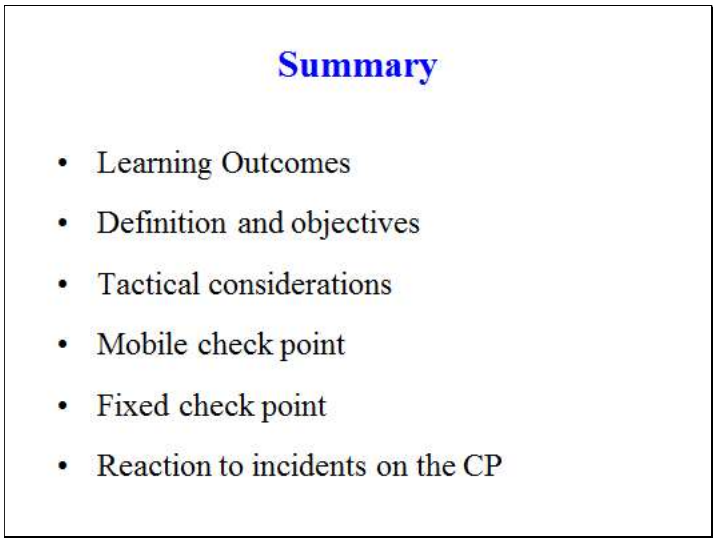
As with shelling, the first important safety concern is to seek cover. If the location of the sniper can be ascertained then the correct cover can be sought.

Raise alarm, within the unit, on the radio and up the chain of command

Locate the sniper using the checkpoints observation posts.

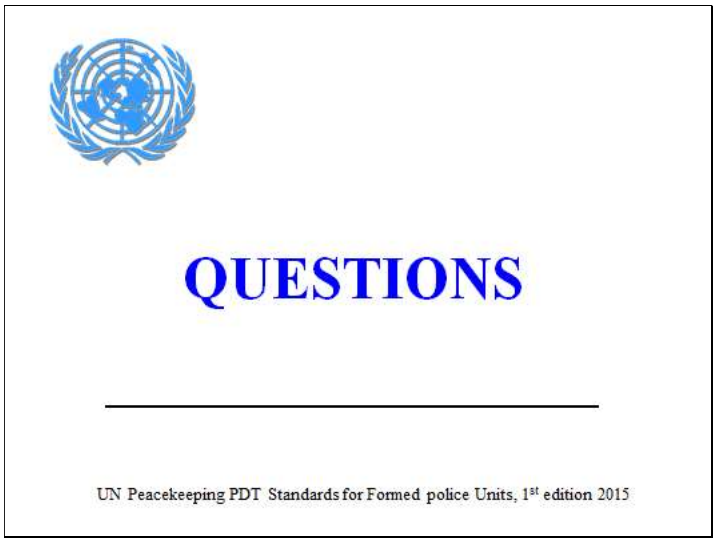
Deploy personnel in a counter sniper role, make use of smoke to screen movement, if it is safe to do so, send out a unit to arrest or neutralise the sniper.

Any wounded person must be given first aid and evacuated as soon as it is safe to do so.



Slide 26

The officers should be given a summary of the key points of the lesson before being asked if they have any questions.



Slide 27

Lesson 2: Checkpoints (practical element)

There are four hours of practice recommended for this subjects which should be carried out at the discretion of the instructor. The practice should be in a realistic situation for an urban environment a public order village or 'ghost town' would be useful, alternately an area where the unit can create a full checkpoint, although this will take time and resources.

A number of officers/instructors will be required to act as role players so that the unit can practice various drills and Immediate Actions.

Annex 59

Criminal Code of the Russian Federation, art. 205(1)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

THE RUSSIAN FEDERATION

The Criminal Code of the Russian Federation

Adopted by the State Duma on 24 May, 1996
Approved by the Council of Federation on 5 June 1996

Article 205. Terrorist act

(Title as amended by Federal Law No. 153-FZ of July 27, 2006)

1. The commission of an explosion, arson or other acts that frighten the population and create a risk of loss of human life, causing significant property damage or occurrence of other serious consequences, for the purpose of destabilizing activities of the authorities or international organizations or influencing their decision-making, as well as the threat of taking these actions for the purpose of influencing decision-making by the authorities or international organizations -
(As amended by Federal Laws No. 130-FZ of May 5, 2014; No. 501-FZ of December 31, 2017)

is punishable by imprisonment for a term of ten to fifteen years. (As amended by Federal Laws No. 377-FZ of December 27, 2009; No. 352-FZ of December 9, 2010; No. 375-FZ of July 6, 2016)

(Part as amended by Federal Law No. 153-FZ of July 27, 2006)

Moscow, Kremlin
13 June 1996
No. 63-FZ

Source: http://pravo.gov.ru/proxy/ips/?docbody&nd=102041891

Annex 60

Ministry of Defense of the Russian Federation, *Rules of Firing and Fire Control of Artillery (PSiUO-2011)* (2011)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

MINISTRY OF DEFENSE OF THE RUSSIAN FEDERATION

For official use
Ex. No.___
PROJECT

APPROVE
commander in chief
ground forces
colonel general
A. Postnikov

"___" January 2011

RULES OF FIRING AND FIRE CONTROL OF ARTILLERY

(PSiUO-2011)

PART 1

DIVISION, BATTERY, PLOT, GUNS

Commissioned by order of the commander-in-chief Ground Forces _____

MOSCOW
2011

The Rules for Firing and Fire Control of Artillery set out the methods of preparation and performance of various fire missions by artillery subunits* of the Armed Forces, as well as the basic provisions for fire control of these subunits.

With the release of these rules, the Rules for Firing and Controlling Artillery Fire become invalid. Division, battery, platoon, gun, part 1, ed. 2001

- A subunit is understood as a division (including a separate brigade division) battery, platoon, gun crew.

SECTION ONE

MAIN PROVISIONS. FIRE PREPARATION AND FIRE CONTROL

Chapter I

MAIN PROVISIONS

1. The defeat of the enemy by artillery fire is the main content of its combat operations.

Artillery fire must be effective.

Efficiency artillery **fire** is achieved by timeliness, accuracy, suddenness of fire, the use of high-precision ammunition, the correct choice of means of destruction, the appointment of an expedient order of firing to kill and the method of shelling the target.

Timeliness of fire is achieved:

- constant readiness of artillery units to perform fire missions;
- maintaining continuous interaction with combined arms units (units);
- continuous reconnaissance of the enemy and observation of the actions of their troops;
- timely planning of fire and maneuver of artillery units and timely setting (clarification) of tasks for them;
- advance determination of installations for firing at the largest possible number of local objects in a possible target area;
- operational, sustainable and covert fire control.

The accuracy of the fire is achieved:

- careful implementation in full of measures for the preparation of firing and fire control;
- using the most accurate methods for determining shooting settings;
- adjusting fire during shooting to kill.

The suddenness of fire is achieved:

- covert deployment of artillery units in battle formation and maneuver during the battle;
- stealth preparation of fire;

- opening fire to kill without zeroing or on time, to ensure the simultaneous detonation of shells of all guns at the target;

- choosing the most expedient time for opening fire;

- compliance with the rules of covert command and control of troops.

The suddenness of fire is of particular importance in the defeat of manpower and highly maneuverable targets.

2. In the course of combat operations, artillery subunits perform fire missions to destroy various targets, remote mining, lighting support for combat operations of combined arms subunits and firing artillery at night, smoke the enemy, spread propaganda material, and create hotbeds of mass fires.

Targets of shooting to kill can be: destruction, destruction, suppression, and exhaustion.

The destruction of the target consists in inflicting such losses (damage) on it, in which it completely loses its combat capability.

The destruction of the target is to bring it into a state unsuitable for further use.

Suppression of a target consists in inflicting losses (damage) on it or in creating conditions by fire under which it is temporarily deprived of its combat capability, its maneuver is limited, or control is disturbed.

Exhaustion consists in the moral and psychological impact on the enemy's manpower by conducting harassing fire with a limited number of guns and ammunition for a set time.

With **remote mining** , the task of firing may be to restrict freedom of maneuver, disrupt the organized advancement and deployment of enemy military units (subunits), inflict damage on the enemy by laying covering and fettering minefields.

In **the case of lighting support for** combat operations of combined arms units and artillery firing at night, the objectives of firing may be to illuminate the area, dazzle observation posts (electronic-optical means) and enemy fire weapons, and set up light landmarks (targets).

When the enemy is filled with **smoke** , the tasks of firing may be to set up smoke screens, smoke the enemy's fire weapons, his command and observation posts.

When **shooting with propaganda projectiles** , the task of shooting is to deliver and distribute propaganda material at the enemy's location.

When **creating centers of mass fires** , the task of firing may be the destruction of manpower, fire weapons, military equipment, warehouses, as well as the prohibition of maneuver of enemy troops.

When performing fire missions, artillery subunits fire from closed or open firing positions.

3. When performing fire missions, artillery subunits independently use the following **types of fire** :

- division - concentrated fire (SO), single mobile barrage (PZO) and single fixed barrage (NZO);

- battery - single NZO, concentrated fire;

- platoon or gun (mortar, rocket artillery combat vehicle) [1]- fire on a separate target.

In addition, the division can participate in concentrated and barrage fire of an artillery unit, in massive fire (MOg) of the artillery of an association (operational command), a fire barrage (OgV) and sequential concentration of fire (PSO).

4. The number of batteries (platoons, guns) involved in the performance of a fire mission depends on the nature, importance and size of the target, the range of fire, the mode of fire, the firing task, the required consumption of shells, as well as on the time available and other conditions for the performance of the fire mission.

To increase efficiency and reduce the time of firing to kill, it is advisable to involve the maximum possible number of batteries (platoons, guns) in the given conditions.

5. The projectile [2], fuse and its installation are selected based on the nature of the target and the task of firing.

Fire missions are performed by shells of the main purpose: fragmentation, high-explosive fragmentation and high-explosive projectiles (mines) with impact (with installation for fragmentation, high-explosive or delayed action), remote or radio fuses, projectiles with lethal arrow-shaped elements (projectiles with a remote tube), guided projectiles, cluster and corrected projectiles (mines), incendiary shells (mines), armor-piercing, cumulative, sub-caliber and concrete-piercing shells, as well as special purpose: shells with anti- tank mines **,** lighting, smoke and propaganda shells (mines).

[1]What has been said about the gun, if there is no special reservation, also applies to the mortar, the rocket artillery combat vehicle.

[2]What has been said about the projectile, if there is no special reservation, also applies to the mine.

6 . The type of firing and charge are selected taking into account the firing range, the type of projectile, the type and installation of the fuse, the nature of the target and its position on the ground in such a way that the greatest damaging effect of the projectile on the target is ensured, and there is a range margin necessary to complete the adjustment or use the adjusted amendments. When shooting in the mountains, in addition, take into account the possibility of shooting through the ridge of the shelter.

When firing from guns, flat (at elevation angles up to 20º), mounted (at elevation angles from 20 to 45º) and mortar trajectory (at elevation angles greater than 45º) are used.

To obtain ricochets, a flat trajectory and a charge are always assigned to ensure their receipt.

In case of flat and mounted firing, the largest or close to it charge is assigned when hitting openly located armored targets (tanks, infantry fighting vehicles, armored personnel carriers, self-propelled guns, etc.), as well as when firing shells with a remote fuse (tube) and radio fuse. In other cases, the smallest charge is assigned.

When firing mortars from guns and firing from mortars, the charge is selected according to the instructions in the Firing Tables.

The ballistic version of the rocket and guided projectile is chosen, guided by the instructions of the Firing Tables.

7. Installation of sighting devices and a fuse (tube) on which they open fire are called shooting rigs.

Methods for determining shooting settings :

- full preparation;
- use of adjusted amendments;
- reduced training;
- eye preparation;
- visual transfer of fire.

Installations on which shooting to kill are carried out are called installations for shooting to kill.

Ways to determine settings for shooting to kill :

- full preparation;
- target shooting;
- use of adjusted amendments;
- reduced preparation.

Full training is the main way to determine the settings for shooting to kill in preparation for combat operations. It ensures the speed and surprise of opening fire to kill. Its use is independent of weather and visibility conditions.

Zeroing in on a target is the most accurate way to determine target shooting settings. Zeroing in is used in conditions of low enemy fire resistance, when hitting targets unable to change location in a short time, and also if the suddenness of the opening of fire is not of decisive importance.

Zeroed **corrections are used** in determining the settings for shooting to kill in cases where there is a previously zeroed target (benchmark), and zeroing for some reason is impossible or impractical, and also for zeroing the target.

Reduced training is used when opening fire on a target for its subsequent zeroing in, creating (zeroing in) a benchmark, and in some cases for shooting at group targets by a division.

Visual preparation is used to open fire, followed by zeroing in on a target if it is impossible to use a more accurate method.

Visual transfer of fire is used when determining settings for opening fire in the shortest possible time for zeroing in on a target, creating (zeroing in) a benchmark.

In all combat conditions, the division (battery) commander must be prepared to determine the installations for firing to kill in a way that ensures the greatest effectiveness of fire.

The commander of an artillery subunit is obliged to clarify the settings for firing to kill as more accurate information is obtained about the position of the firing position, command and observation post, target and conditions of firing, as well as in the course of firing to kill.

eight. When determining the order of shooting to kill , the following is established:

- total time of impact on the target;

- the number of fire raids and fire observations, their duration and time distribution;

- distribution of shells between fire raids and fire observations;

- the order of firing: fire with single shots, methodical fire (a series of methodical fire), rapid fire (a series of rapid fire), fire in volleys.

Fire raid - fire for a limited time, characterized by a sudden opening and great density. It can be either rapid fire (when the duration of the fire raid is not set), or start with a series of rapid fire and continue with methodical fire (when the duration of the fire raid is set).

In all cases, fire raids begin with volleys of batteries. When performing a fire mission by a battalion, if the situation allows, the salvo time of each battery is determined taking into account the flight time of the shells, based on their simultaneous detonation at the target.

Targets are hit by one or more fire raids.

One fire raid is assigned when firing to destroy or suppress highly maneuverable, openly located targets, as well as to perform other tasks determined by the conditions of the situation. During the battle, targets are usually hit with one fire raid. When firing at the destruction or suppression of highly maneuverable and openly located targets, as well as at targets that must be hit in the shortest possible time, a fire raid is carried out with rapid fire.

If after a fire raid on an artillery (rocket, mortar, anti-aircraft) battery (platoon) or a separate target (launcher, gun, etc.) it is established that the target continues its fire activity, then the fire raid is repeated with the same consumption of shells , making corrections if necessary.

Several fire raids on one target are assigned, as a rule, when firing to suppress covered targets, the maneuver of which is impossible or limited. Fire raids in this case can be of a fixed duration or be carried out by rapid fire. The number of fire raids is set depending on the conditions of the situation so that they are distributed over the time during which the target must be in a suppressed state. The duration of fire raids is set depending on the task of firing and the prevailing situation.

Fire observation - fire in the intervals between fire raids with the task of preventing the resumption of the target's activity. It is conducted by methodical fire, series of rapid (methodical) fire, or a combination of them.

Fire observation is carried out when the interval between fire raids on a target exceeds 15 minutes. As a rule, one battery is involved in conducting fire observation, which fires at the center of the target on one goniometer installation with a fan assigned for a fire raid.

A series of quick (methodical) fire - a limited number of shots (2...4 per gun) fired by quick (methodical) fire without changing the settings for shooting to kill.

A series of rapid fire begins with a salvo of all guns involved in firing, and continues at the maximum rate (taking into account the mode of fire) until the specified amount of ammunition is used up.

A series of methodical fire also begins with a volley of all guns and continues in turn with gun shots from each battery at a set interval (tempo).

9. When performing fire missions, **the division** uses the following **methods of target shelling** :

- batteries overlaid;
- batteries scale;
- with the distribution of target sections from the composition of the group (line) or individual targets between the batteries.

When performing a fire mission by a division **with overlay** batteries, cannon artillery batteries fire at an observed target with a fan along the width of the target, at one sight setting, determined at the center of the target, if the target depth is less than 100 м, and at one or two goniometer settings. When performing a fire mission to hit a group target with a depth 100 мor more, cannon artillery batteries fire at three sight settings, one or two goniometer settings. Batteries of rocket artillery fire at the center of the target on one sight setting and one protractor setting.

When performing a fire mission by a division with **batteries on a scale** , each battery fires at one sight setting at its aiming point and one goniometer setting with a fan along the width of the target.

When performing a fire mission by a division **with the distribution** of target areas (line) or individual targets from the group between batteries, the batteries fire as if performing a fire mission independently.

When performing a fire mission on its own, a cannon artillery battery fires at one or three sight installations and one or two goniometer installations. A rocket artillery battery (platoon, combat vehicle) fires on one goniometer installation. In this case, the battery fires at one or two (when firing by platoons with a scale) sight settings, and the platoon - at one or more (according to the number of combat vehicles in the platoon when firing by combat vehicles with a scale) sight settings.

When assigning a method of firing a target with a battery , determine:

- number of sight settings;
- the magnitude of the jump of the sight (scale) and the scale of the fuse (tube);
- number of goniometer settings;
- fan interval;

- consumption of shells per gun-installation (BM MLRS) .

10. To ensure the safety of his troops, when firing at targets located near them, the division (battery) commander must:

- apply the most accurate ways to determine the settings for shooting;
- appoint shells and charges that provide the least dispersion;
- avoid switching from one charge to another and firing different batches of charges;
- start zeroing in with a smoke projectile, if any;
- start zeroing in with the expectation of getting the deviation of the first explosion from the target in the direction opposite to own troops;
- conduct continuous monitoring of firing and advanced units of own troops, especially when maintaining a barrage of fire and consistently concentrating fire;
- to immediately cease or transfer fire upon receipt of an appropriate signal or when troops leave for a safe distance.

11. When opening fire **, the safe distance (** $L_{БУ}$ **) of friendly** troops from the target (near border of the group target) depends on the errors in determining the settings for firing, dispersion of projectiles, and the radius of dispersion of fragments. When firing high-explosive fragmentation projectiles with an impact fuse $L_{БУ}$, it is determined by the formula:

$$L_{БУ} = 5\sqrt{E\partial^2 + B\partial^2} + r_{\max}.$$

Values for safe distances for average conditions when determining settings for firing by the full training method are given in the Manual for the study of NSR.

The values of the median errors in determining the settings for firing in range $E\partial$ and the maximum radius of scattering of lethal fragments $r_{\max}$ are given in the Handbook for the Study of the Rules of Fire, and the median deviations in the dispersion of projectiles in range $B\partial$ are in the Firing Tables.

When conducting accompanying fire, the safe removal of attacking subunits from bursts of their shells is established by the combined arms commander and can be 200 мfor tank subunits 300 м- when attacking on infantry fighting vehicles (APCs), 400 м- when attacking on foot.

12. Solid knowledge and skillful application of the methods and techniques set forth in these Rules ensure the effective performance of fire missions. The justified use of other methods and techniques that ensure the effective fulfillment of fire missions in specific conditions of a combat situation is not ruled out.

the goniometer are determined by the intermediate sight.

The sight correction (taking into account the sign) is added to the intermediate sight and the calculated sight setting is obtained. The directional correction is added to the intermediate turn and the calculated turn is obtained.

According to the calculated sight setting in the Firing Tables, a tabular setting of the fuse (tube) is found, to which is added (taking into account the sign) an amendment to the installation of the tube taken from the graph of calculated corrections, and the calculated setting of the fuse (tube) is obtained.

Chapter XVII

SHOOTING TO HIT

HEATING FIXED NON-OBSERVED AND OBSERVED GROUND TARGETS

405. Fixed unobserved and observed targets are hit by rocket artillery, as a rule, with one volley. The number of batteries (platoons, BM) involved in the performance of the fire mission is assigned depending on the nature and size of the target, its importance, the task and conditions of firing, the type of projectile and the required ammunition consumption (Appendix 12, tables 16 and 17).

As a rule, no less than a battery is used to destroy stationary unobserved and observed targets.

406. Batteries (platoons) of self-propelled armored guns (mortars) strike with medium-range and long-range medium-caliber rocket artillery fire, involving at least a division in firing.

To destroy batteries (platoons) of self-propelled unarmoured and towed guns, as well as rocket launchers, at least a division is involved.

Shooting is carried out with projectiles with a radio fuse or an impact fuse with a fragmentation action, and to destroy towed batteries and fragmentation cluster projectiles.

407. Manpower, fire weapons and unarmored targets located openly are hit by fragmentation cluster projectiles, projectiles with a radio fuse or impact fuse when set to fragmentation action.

To destroy infantry fighting vehicles, armored personnel carriers located openly, as well as infantry fighting vehicles, armored personnel carriers, fire weapons, unarmored targets and manpower located in trenches without overlapping, shells with a radio fuse and an impact fuse are used when installed on a fragmentation action.

Manpower and firepower located in trenches with ceilings, in dugouts and solid buildings are hit by high-explosive fragmentation (high-explosive) shells with the fuse set to high-explosive action.

Tanks and armored personnel carriers located in waiting (source) areas that are not equipped with trenches with ceilings are struck by shells with a percussion fuse when set to fragmentation action.

408. The dimensions of a group target assigned to destroy the division and battery with fire should not exceed the dimensions indicated in table 5.

Table 5

Maximum group target sizes

rocket artillery	Projectile type	Target Dimensions			
		for battery		for the division	
		front	depth	front	depth
Medium caliber (BM-14)	high-explosive fragmentation	300	300	400	400
Large caliber (BM-24)		500	200	600	500
Medium caliber medium range ("Grad" -1)		700	400	900	900
Medium-caliber long-range (BM-21)		500	400	800	700
Large-caliber long-range ("Hurricane")	high-explosive fragmentation	700	500	1000	1000
	Fragmentation cassette	800	600	1200	1200

409. The minimum dimensions of a group and individual target along the front and depth, when assigning the expenditure of shells and the method of shelling it, are taken equal to:

- 300 m - for medium-caliber rocket artillery;

- 200 m - for large-caliber rocket artillery;

- 400 m - for medium-range and long-range rocket artillery of medium caliber;

- 500 m - for long-range large-caliber rocket artillery when firing high-explosive fragmentation projectiles and 600 м- when firing fragmentation cluster projectiles.

410. When firing at a target whose frontal and depth dimensions do not exceed the minimum, the battalion fires overlay batteries on one sight setting with a concentrated fan. A battery that performs a fire mission on such a target on its own also fires on one sight setting with a concentrated fan.

Appendix 12

Projectile consumption rates

Table 15
(to Art. 316)

Names of targets hit by artillery fire, and their nature, transmitted in commands to open fire

No. p/p	Target name	The nature of the target transmitted in commands to open fire
one	Launcher UR or NUR, located openly	Launcher
2	Battery (platoon) of self-propelled armored guns	Armored battery armored platoon
3	Battery (platoon) of self-propelled unarmored guns	Self-propelled battery Platoon self-propelled
4	Battery (platoon) of sheltered towed guns	Battery covered Covered artillery platoon
5	Battery (platoon) of openly located towed guns	Artillery battery Artillery Platoon
6	Battery (platoon) of sheltered rocket launchers	Battery reactive sheltered Reactive sheltered platoon
7	Battery (platoon) of openly located rocket launchers	Reactive battery jet platoon
eigh t	Battery (platoon) of sheltered towed (portable) mortars	Covered mortar battery Covered mortar platoon
9	Battery (platoon, section) of openly located towed (portable) mortars	mortar battery mortar platoon
10	Platoon (section) of self-propelled armored mortars	armored mortar platoon
elev en	Platoon of self-propelled missiles with a single guidance system	SAM platoon
12	Battery of towed missile launchers with a single guidance system	SAM battery
thir- teen	Installation of missiles (ZSU) with an autonomous guidance system	Installation of missiles
14	Radar station for field artillery, air defense (ABM) or aviation; radio engineering station; car radio station	Radar station
15	Ground reconnaissance radar	Ground reconnaissance radar
six- teen	Group of radar stations or radio stations on vehicles	Group of radar stations
17	Sheltered manpower and firepower in positions, in the area of concentration, waiting or starting area, located in trenches without overlap	Infantry covered
eigh teen	Sheltered manpower and firepower in positions, in the area of concentration, waiting or starting area, located in trenches with ceilings	strong point
nine teen	Openly located manpower and firepower	Infantry
twe nty	Command post or control post located in dugouts or covered trenches (trenches)	Command post hidden
21	Command post or control post located openly (in uncovered cars, buses)	Command post
22	Tanks, infantry fighting vehicles, armored personnel carriers in the concentration area, waiting area or starting area	Tanks (Armored personnel carriers)

Table 15 continued

No. p/n	Target name	The nature of the target transmitted in commands to open fire

23	Helicopter on landing site	Helicopter
24	Helicopter unit on the landing site	Helicopter group
25	Unarmored ATGM installation Anti-tank gun or other single unarmored target	ATGM installation Anti-tank gun (or the name of another single unarmored target)
26	Armored ATGM mount or other single armored target	Armored ATGM installation Tank (or name of other single armored target)
27	A column of towed artillery, vehicles or lightly armored vehicles, as well as a foot column	Column (Column on foot)
	A column of tanks, self-propelled armored guns, mortars or other armored vehicles	Armored column

Table 16
(to Art. 188, 220, 302, 405)

Consumption rates of projectiles for hitting stationary unobserved targets

Caliber, mm	Battery (platoon) of sheltered towed guns (mortars)	RLS, a group of RLS or radio stations on vehicles, batteries (platoons) of self-propelled missiles with a single guidance system, located in the open	Manpower and firepower, covered command posts; tanks and, infantry fighting vehicles, armored personnel carriers in the area of concentration	Living force located in the open	Command posts on vehicles located in the open	Separate unarmored target (anti-tank rocket installation, anti-tank gun, etc.) located in the open
	Suppression			Destruction		
	on target	on target	on 1 hectare	on 1 hectare	on 1 hectare	on target
Rifled guns						
76	540	450	450	90	150	900
85	480	400	400	85	120	800
100	360	300	300	55	80	350
120	200	160	150	35	50	300
122	240	200	180	40	50	300
130	220	180	160	40	50	300
152	180 (60)	150 (50)	120 (–)	25 (8)	40 (15)	300 (100)
203	180 (60)	100 (30)	40(-)	20 (7)	30 (10)	-
Mortars						
82	-	-	700	95	100	500
120	300	180	200	25	60	350
160	300	80	100	20	20	200
240	150	40	50	15	20	-
Rocket artillery						
BM-14	450	300	300	60	60	-
BM-24	300	one hundred	90	25	25	-
Grad-1.	400	150	120	25	25	-
BM-21	500	240	160	35	40	-
Hurricane	180 (40)	120 (80)	15 (-)	7(1)	10(3)	-

Notes

1. The table shows the consumption of high-explosive fragmentation shells, in parentheses - the consumption of fragmentation cluster shells, a dash means that shooting to kill is impractical.

Projectile consumption rates are given for the following conditions:

- firing range up to ***10*** km inclusive, settings for firing to kill are determined by the method of full training or using data from the zeroing in gun, and for rocket artillery - by the method of full or reduced training;

- when shooting at a distance of more ***10*** km the shell consumption is increased by ***1/10*** for each subsequent kilometer of range over ***10*** km (except for rocket artillery). For cannon artillery and mortars, the norms are given for shells (mines) with a three-digit digital index, when firing shells (mines) with a two-digit digital index, batteries (platoons) of sheltered towed guns and armored targets are hit with the indicated consumption, when other targets are hit, the consumption of shells (mines) is reduced by ***1.5*** times.

2. When determining the settings for shooting to kill the zeroed in target, using the zeroed in corrections of own battery, or in cases where fire is corrected, shooting to kill, the consumption of shells is reduced by ***1/4*** (except for rocket artillery) .

When determining the settings for firing to kill by the method of reduced training, the consumption of shells is increased by ***1.5*** times (except for rocket artillery).

3. If an unarmored target is hidden, the projectile consumption is increased by ***3*** times.

If the battery (platoon) of towed guns (mortars) is located in the open, the consumption of shells is reduced by ***3*** times.

4. When destroying targets for which the norms for suppression firing are given, the consumption of shells is increased by 3 times; when suppressing targets for which the norms for shooting to destroy are given, the consumption of shells is reduced by 3 times.

5. When firing at an armored radio location station or a separate armored target, the command post on an armored

personnel carrier, the consumption of projectiles set for the corresponding targets is increased by 3 times.

6. When firing with 120-mm active-rocket mines and 152-mm active-rocket shells, the consumption of mines (shells) is increased by 1.4 times.

Table 17
(to Art. 188, 302, 405)

Consumption rates of projectiles for hitting columns and highly maneuverable targets

Caliber, mm (MLRS system)	columns	Batteries (platoons)		Launchers, batteries (platoons) and individual rocket launchers, missile launchers (ZSU) with an autonomous guidance system, helicopters (helicopter) on landing sites located openly
		Self-propelled armored guns (mortars)	Self-propelled unarmored guns	
	Delay or play movable	suppression	Destruction	Destruction
Rifled guns				
76	twenty	-	-	-
85	sixteen	-	-	-
one hundred	10	sixteen	sixteen	eighteen
120	6	12	12	9
122	eight	sixteen	sixteen	10
130	eight	10	10	10
152	6 (6)	10	10	8 (8)
rocket artillery				
BM-14	One salvo	-	-	-
BM-24	One salvo	-	-	12
Grad-1	One salvo	One salvo	One salvo	twenty
BM-21	One salvo	One salvo	One salvo	thirty
"Hurricane"	One salvo	-	16 (10)	16 (16)

Notes:

1 The table shows the consumption of high-explosive fragmentation shells, in parentheses - fragmentation cluster shells. A dash means that shooting is inappropriate.

2 Norms, consumption of shells are given in pieces per gun (shares of a volley per combat vehicle), regardless of the firing range.

3 For firing at armored columns, at least a reactive battalion is involved, at unarmored columns - at least a battery. For firing at highly maneuverable targets, no less than a reactive battery is involved.

RULES FOR FIRING AND ARTILLERY FIRE CONTROL

Part 1

Division, battery, platoon, gun

Prepared by a team of authors led by
Major General V.V. Dyatlova
Responsible executors A.V. Karpovich, A.G. Musin

Annex 61

Ministry of Defense of the Russian Federation, *Manual for the Study of the Rules of Firing and Fire Control of Artillery (PSiUO-2011)* (2014)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

MINISTRY OF DEFENSE OF THE RUSSIAN FEDERATION

DEPARTMENT OF ROCKET TROOPS AND ARTILLERY OF GROUND FORCES

For official use
Ex. No. ___

MANUAL
FOR THE STUDY OF THE RULES OF FIRING AND FIRE CONTROL OF ARTILLERY
(PSiUO-2011)

PART 1

DIVISION, BATTERY, PLOT, GUNS

Commissioned by the Chief of Missile Forces and Artillery of the Ground Forces in 2011

MOSCOW
2014

Content

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Introduction

In the manual for the study of the Rules of firing and fire control, clarified the rationale for a number of basic provisions on shooting and direct fire control aiming, shooting and fire control of rocket artillery, shooting and control fire at night and in other conditions of limited visibility, shooting and fire control in the mountains, shooting and fire control in the defense of the sea coast, features shooting and fire control when performing fire missions with high-precision ammunition, as well as on fire control of artillery units in various conditions. The duties of fire control division officials have been clarified, on setting fire missions and monitoring their implementation.

The study of the issues of shooting and fire control of artillery is for modern artillerymen the basis for knowing their profession, understanding the real state of affairs and forecasting directions for further development of the art of management artillery fire.

SECTION D E L P E R V Y

MAIN PROVISIONS. SHOOTING PREPARATION AND CONTROLS FIRE

CHAPTER I. MAIN PROVISIONS

To Art. one

Artillery firing is a set of actions of artillery commanders, headquarters and subunits in the performance of fire missions to defeat various targets, for remote mining, lighting support for hostilities combined-arms units and artillery firing at night, the smoke of the enemy, dissemination of propaganda material, creation of hotbeds of mass fires, creation (shooting) of benchmarks, target designation. The main contents of artillery firing constitutes the destruction of the enemy by fire.

Artillery fire is the more effective, the more losses inflicted on the enemy, the more more reliably and for a longer time it is suppressed, the more significant the destruction, caused to its firing or engineering structures.

The effectiveness of fire depends on many interrelated factors. Practically all tasks performed by artillery commanders, headquarters and units, directly or indirectly should be directed to the skillful use these factors to achieve the maximum possible under the given conditions fire efficiency.

A fire is well-timed if it is opened before the target changes its location, if its results can be used by combined arms subdivisions to perform assigned tasks with the least losses. This achieved by continuous reconnaissance of the enemy and observation of his actions, maintaining continuous interaction with combined arms units (in parts). Early determination of installations for firing at the largest possible the number of local objects in a possible target area allows you to prepare fire on goals as soon as possible.

The accuracy of the fire depends on the timeliness, completeness and thoroughness of the execution of measures for the preparation of firing and fire control, on the method used for determination of settings for firing and the possibility of their refinement in the course of firing. The accuracy decreases as the errors in determining the settings for shooting for defeat increase.

However, when the accuracy is reduced to certain limits, the efficiency of fire can be maintained at the required level by changing the method of firing at the target, attracting more guns to firing, and increasing the consumption of projectiles. Significant errors in the determination of settings for firing with the recommended methods of shelling a target cannot be compensated for by any number of guns involved in firing and consumed projectiles. Therefore, when performing a fire task, it is required to use the most accurate methods for determining settings for firing and to correct fire in the course of firing to kill.

The suddenness of artillery fire is intended to take the enemy by surprise - outside shelters, not ready to apply means of protection and to resist. Wherein, as a rule, it is possible to inflict much greater losses on the enemy than in the absence of suddenness, and, in addition, to exert the strongest morale on his manpower psychological impact, which makes it difficult for the enemy to recover combat capability. An important factor in ensuring the surprise of fire is opening fire to kill without shooting.

The use of high-precision munitions allows you to hit targets from closed firing positions with one or more shots. Precision munitions it is advisable to use to defeat observed highly maneuverable targets (tanks, infantry fighting vehicles, armored personnel carriers, anti-tank systems, anti-tank guns), as well as individual fire weapons in wood-and-earth structures and structures made of prefabricated structures, destruction of which under similar conditions requires a significant expenditure high-explosive fragmentation projectiles.

The choice of means for performing a fire mission is the most important responsibility artillery commanders and headquarters and includes the choice of artillery system, the appointment of the number of guns (batteries) involved in firing, the choice of the type of projectile, charge, type of fuse and its settings, as well as the purpose of the consumption of shells. The selected means should provide the greatest efficiency of fire in the given specific conditions for performing a fire mission.

To Art. 2, 3

As a result of artillery fire, the enemy inflicts losses in the form of material and moral damage. In practice, it is usually required to know the expected the results of each individual shooting before it starts, or create conditions for obtaining a predetermined efficiency as a result of firing, which can be expressed through the values of performance indicators. Target fire efficiency

To chapter VIII. HEAT MOVING GROUND TARGETS

The defeat of the columns

To Art. 241…252

The defeat of the columns is carried out with the task of delaying or preventing their movement, and also inflicting losses on them. The fulfillment of the specified tasks can be achieved carrying out a fire raid with a high density of fire for a short time, which can be achieved when a company (battery) column is hit by firing no less than an artillery battalion.

Features related to the nature of the goal and consisting in the fact that the goal is moving, has practically only one size (length) and can move in any direction relative to the plane of fire, necessitate development of special recommendations on the method of shelling it and the choice of points aiming.

To ensure that the column is covered by the shelling area, the division must lead shooting at multiple aiming points in range and direction. How show calculations to ensure the probability of covering the column with an area gaps of at least 80%, the distance between the aiming points in range should be at least 100m, and in the direction of at least 50m. With such distances between aiming currents, as calculations show, the requirement of uniformity is not violated distribution of projectile impact points within the firing zone.

In the explanations to Art. 175, it is shown that the most advantageous fan interval for shooting at openly located unarmored targets is 50 m. This value the interval of the fan is also accepted in case of defeat of columns of unarmored vehicles and foot columns. When columns of armored vehicles are hit in order to increase uniformity and density of breaks in each section of the column, to maintain that the same fan interval (50 m), it is recommended to involve at least two divisions overlay. Narrowing the fan interval to 25 m (as recommended when firing at armored targets) would lead to a reduction in the size of the area shelling along the front, and consequently, to reduce the likelihood of covering the column area of discontinuities.

Fire raid when hitting moving targets at one meeting point, determined by the duration of no more than 2 minutes. This duration is defined based on the calculation that at an average speed of 15 ... 20 km / h during this time the column will leave the zone of fire for at least half of its length, or

spread out (increase the distance between cars). Therefore, further management
fire on the column at the same meeting point is impractical. It also follows from this that
a fire raid on a column, the division must conduct rapid fire, with batteries on a scale, so that
Don't waste time changing settings.

The consumption rates of projectiles for destroying columns are determined for one gun per
one fire raid, based on the mode of fire of the guns with the duration of the fire
flight time 2 min, regardless of the number involved in the fire mission
divisions.

To increase the effectiveness of the fire impact on the column, fire raids
it must be carried out at several meeting points. Distances between points
meetings are scheduled based on the speed of the columns, the time limits for opening fire
division according to the planned goal and the time required to set tasks for the means
reconnaissance serving shooting. This distance averages 2.5…3 km.

The column of a battalion (division) has at least three company
(battery) columns, the length of each of which is 500 ... 1000 m or more. From here
it follows that the column of a battalion (division), as a rule, has a significant
length, so to defeat it, you will need to attract several
divisions.

Minimum distances between points at which fire is being prepared
divisions (aiming points) should be such that it excludes
overlapping areas of shelling by neighboring divisions. They can be calculated with
taking into account the adopted method of shelling the target and the values of the reduced median deviations
scattering. At long ranges of fire, typical for the destruction of columns,
the values of the reduced median deviations of dispersion during the shooting of the division
are 40...60 m in range and 10...20 m in direction. Then the length of the zone
uniform dispersion of battalion shell explosions, when firing batteries
scale will be

with frontal movement of the column lfr=2(ÿÿ+4Vdo)=520…680m;

with flank movement of the column lfl=2(2.5lv+4Vbo)=330…410m;

for the case of the oblique movement of the column, the distance between the
aiming points lobl=(lfr2+ lfl2) 0.5= 620...800 m, or an average of 700 m, which is recorded in
Shooting rules.

If the defeat of the column is carried out at several points of the meeting, then it is necessary
determine and introduce corrections for the deviation of the centers of the volleys of the division from the points
encounters when columns are hit at previous encounter points

To Art. 405-407

When assigning the amount of reactive
artillery is based on the fact that the target was hit with the expenditure of a full volley. Wherein
take into account the minimum and maximum target sizes for the attracted quantity
divisions.

Batteries (platoons) of self-propelled armored guns (mortars) and others
highly maneuverable targets are hit, as a rule, after their additional reconnaissance. This is explained
the fact that the time of readiness of rocket artillery units for unplanned targets in
in some cases, it can be much more than the receiver, which is explained
the need to determine the wind at the OUT before shooting, the installation of brake
rings and distance tube values.

When assigning a target to a rocket artillery unit for destruction, including
case when the shells are already loaded into the package, it should be borne in mind that changing the setting
fuse from fragmentation to high-explosive and vice versa requires considerable time. This
associated with the need to extract shells and reload them.

To Art. 408-411

When justifying the minimum size of a group target for rocket artillery units, it is
assumed that the dispersion of rocket projectiles is large. Even when shooting at the
same sight setting and a concentrated line of fire, the projectile spread zone will be
large.

The dimensions of the zone of uniform dispersion of rocket projectiles can be
calculated by the formulas:

$$Г\ u\ min = (4...5)\ Bd0; \quad (124)$$

$$Ф\ c\ min = (4...5)\ Bb0. \quad (125)$$

Table. 55 contains the minimum possible sizes of a group target for a division
and a battery when firing at medium ranges calculated according to the above
formulas (124) and (125).

Table 55

Minimum possible sizes of a group target when firing by division and battery

Missile system	Projectile type	Subdivision	Minimum possible target dimensions, m		Minimum target dimensions adopted in the PSiUO, (front x depth), m
			Front	Depth	
Medium caliber (BM-14)	Pigh-explosive fragmentation	Division	240...360	260...390	300 x 300
		Battery	220...270	240...360	
Large caliber (BM-24)	Same	Division	220...280	360...450	200 x 200
		Battery	200...250	320...400	
Medium caliber medium range ("Grad-1")	Same	Division	380...475	320...400	400 x 400
		Battery	280...350	320...400	
Medium caliber long range (BM-21)	Same	Division	380...475	460...575	400 x 400
		Battery	320...400	440...500	
Large-caliber long-range ("Hurricane")	Same	Division	570...700	500...620	500 x 500
		Battery	420...525	440...550	
	Fragmentation cassette	Division	560...700	560...700	600 x 600
		Battery	420...525	500...625	

Table 55 data analysis shows that the minimum possible group target sizes for medium-range and long-range medium caliber systems can be combined into one group. In addition, in order to simplify practical recommendations, their values for the division and battery along the front and depth can be taken the same.

The results of similar calculations show that the minimum size of a group target for a division and a battery is also valid for a platoon. Therefore, the Shooting Rules contain uniform (averaged) and range-independent values of the minimum size of a group target.

At the same time, it must be borne in mind that the minimum dimensions of targets serve not only to determine the method of shelling the target, but also to determine the consumption of shells when its rate is set per 1 hectare of the target area, and the actual dimensions of the latter are smaller. The consumption of projectiles for such targets is taken equal to the consumption calculated for the target of minimum size.

As calculations show, in this case it significantly exceeds the consumption obtained based on the actual size of the target, which leads to an overrun of shells. So, for example, when assigning a target expenditure of 300 by 300 (9 ha), for long-range medium-caliber artillery, the dimensions of the target must be taken as 400 by 400 (16 ha). At this, the consumption of shells increases by almost 2 times. From this follows the conclusion that

it is advisable to use rocket artillery to hit targets that are larger than the minimum size for a particular system.

An increase in the consumption of shells is achieved by attracting an additional number of units (combat vehicles). In practice, it is done as follows: the required number of units for firing at the target with the consumption of a full salvo gets involved, while assessing the achieved degree of target destruction, depending on the proportion of the projectile consumption rate.

If the size of the group target exceeds the minimum, then the shooting should be carried out with a scale and with the distribution of aiming points along the front. If, in this case, the value of the scale and interval of the line of fire would not exceed the values determined by formulas (124) and (125), then a uniform distribution of shell bursts will be achieved within the shelling area.

The minimum target dimensions in depth, as follows from the data in Table 55 are at the same time the maximum depth of the area on which a uniform distribution of projectiles is achieved when firing at one sight setting, i.e. in this case, the minimum and maximum target dimensions in depth are the same.

When determining the maximum size of the target, it is proceeded from the same provisions as for cannon artillery: the maximum zone of uniform dispersion of projectiles, taking into account their destructive effect. These dimensions can be calculated using the formulas:

$$Гcmax = nэ(3...4)Bd0; \quad (126)$$

$$Фcmax = nф(3...4)Bb0. \quad (127)$$

Let us determine the possible values of the maximum sizes of a group target for a division when firing at medium ranges and the sizes of the area corresponding to these ranges, on which the suppression of openly located manpower is achieved. The calculation results that are given in table 56 show that, in most cases, the maximum size of a group target turns out to be so large that it exceeds the fire capabilities of a division (battery) even when suppressing the most vulnerable target (openly located manpower). Therefore, when determining them, it is proceeded from the requirement that the suppression of a group target of maximum size can be achieved with one salvo of a subunit.

Table 56

Maximum possible sizes of a group target when firing by a division

Missile system	Projectile type	Task of fire	The maximum dimensions of the target, calculated from				Maximum target dimensions adopted in the PSiUO, (front x depth), m
			fire capabilities of division, m		the possibility of uniform distribution of shell bursts, m		
			Front	Depth	Front	Depth	
Medium caliber (BM-14)	High-explosive	Suppression	380	380	1080...1440	580...780	400x400
Large caliber (BM-24)	Same	Same	550	550	2340...3120	1125...1500	600 x 500
Medium caliber medium range ("Grad-1")	Same	Same	900	900	1710...2280	720...960	900 x 900
Medium caliber long range (BM-21)	Same	Same	750	750	1710...2280	990...1320	800 x 700
Large caliber long range ("Hurricane")	Same	Same	980	980	2520...3360	1125...1500	1000 x 1000
	Fragmentation Cassette	Same	1200	1200	2520...3360	1260...1680	1200 x 1200

When firing rocket artillery at medium ranges, dispersion in range and direction differs slightly. From the above calculations, it can be seen that when firing by a division, the maximum dimensions of a group target along the front are twice its maximum dimensions in depth. When firing with a battery at one sight setting, this ratio will be even greater. But, as an analysis of the size of targets assigned to rocket artillery units shows, their front and depth usually differ insignificantly. Therefore, when determining the maximum size of a group target assigned to a division, they mainly proceed from the most characteristic ratio of its parameters, taking into account the fire capabilities of the division.

Similar calculations carried out when determining the maximum size of a group target for a battery show that the patterns noted above are also observed in this case. In addition, when firing with a battery on one sight setting, the maximum depth of a group target cannot be greater than its minimum value for a battery (see explanation to Table 55). Therefore, the maximum dimensions of the depth of a group target for a battery are taken equal to the minimum, and its dimensions along the front are assigned in such a way that the target area does not exceed the firing capabilities of the battery. The same is done when determining the maximum

the size of the group target assigned to the platoon. If the dimensions of the target do not exceed the minimum in depth, and no more than the maximum along the front, then the division fires with batteries overlaid, i.e. on one sight setting, determined by the center of the target, with a line of fire across the width of the target.

If, however, the battery is conducting fire to kill on a scale, then the depth of the area within which a uniform distribution of shell explosions is achieved approximately doubles. Accordingly, the maximum depth of the group target assigned to the battery can be increased, but at the same time, the capabilities of the battery along the front are reduced in the same proportion so as not to exceed its firing capabilities.

From the data in Table 56, it also follows that when a large-caliber rocket artillery battalion fires long-range fragmentation cluster shells, the maximum size of the target during destruction is determined by the fire capabilities of the unit - approximately 150 hectares. Therefore, if the dimens ions of the target exceed the dimensions indicated above, then it is impossible to defeat it as a single target. In this case, if the position of the individual elements of the group target is known, explicit groups of these elements are combined into several group targets, the dimensions of which should not exceed the maximum dimensions of the group target for a battery (platoon).

Aiming points for batteries (platoons) are assigned to the centers of these elements. If there is no data on the position of individual elements of a group target, then its area is divided bet ween batteries (platoons), taking into account the fire capabilities of the subunits.

To Art. 412-415

The solution to the problems of delaying and preventing the movement of columns is achieved by creating on the routes of their movement of a high density of shell explosions, for which fire is required to attract at least a battery, and when firing at columns of armored equipment (tanks, infantry fighting vehicles, armored personnel carriers, etc.) - at least a division.

The size of the firing zone must not be less than those specified in the rules destruction of columns by cannon artillery, which is achieved by firing a battery on one installation of a sight and a fan concentrated (batteries overlaid when firing division).

The length of the column hit by shooting at one aiming point is approximately corresponds to the size of the full dispersion ellipse of a battery salvo (platoon) and is

Annex 62

Irina A. Pankratova and Mikhail V. Kolinchenko, CFT Department of Rosfinmonitoring, *Certain Aspects of Application of New Anti-Terrorism Legislation as it Pertains to Freezing (Restraining) Terrorist and Extremist Assets*, Financial Security (2015)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

FINANCIAL SECURITY

NO. 8 MARCH 2015

T. A. GOLIKOVA:

"Today, amidst new economic challenges, it's impossible not to acknowledge the growing role and importance of state oversight over every single ruble spent".

FINANCIAL SECURITY

CONTENTS

DEAR READERS!

In the current international political and economic situation, the risks and threats faced by the national anti-money laundering system, both internationally and domestically, remain consistently high.

Our tasks require us to reconsider our approaches, functionality as well as planning and reporting systems, to more clearly define the objectives, proposed solutions and the expected results, and finally to develop a new decision-making and follow-up mechanism that would allow us to promptly identify problems and make necessary adjustments to our anti-money laundering and terrorist financing strategy. Today, the importance of effective interagency cooperation aimed at combining efforts to address the task at hand is greater than ever before. In this issue, Tatyana Golikova, head of the Accounts Chamber of the Russian Federation, will share her thoughts on the situation with the readers.

The publication of this issue of Financial Security journal happens at the time when we are standing very close to addressing the challenge of capital amnesty, a process overseen everywhere in the world by FATF. It is our joint task therefore to show utmost responsibility in implementing the Russian President's orders for the drafting of amendments to the Russian legislation concerning the voluntary disclosure of assets owned by individuals. In essence, it is part of a long-term plan for deoffshorization of the Russian economy. Our work in this area must be carried out in such a way as to ensure that there is no risk of Russia finding itself outside international legal framework.

Rosfinmonitoring Director
Yury Chikhanchin

CERTAIN ASPECTS OF APPLICATION OF NEW ANTI-TERRORISM LEGISLATION AS IT PERTAINS TO FREEZING (RESTRAINING) TERRORIST AND EXTREMIST ASSETS

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The article analyses the most recent changes and modifications in the Russian anti-terrorism legislation aimed at improvement of the counter terrorist financing mechanism. The authors discuss in detail the procedure of enforcement of funds or other assets freezing (restraining) orders issued by Rosfinmonitoring, Inter-Agency Coordinating Authority and courts. And finally, presented in the article are amendments to the legislation that have extended the grounds for including persons in the list of terrorists and extremists.

The fight against terrorism, including counter terrorist financing efforts, is the integral part of the national security regime of any country.

For combating the financing of terrorist activity Russia has established the legislative and regulatory

framework, the core element of which is Federal Law No.115-FZ on Combating Legalization (Laundering) of Criminal Proceeds and Financing of Terrorism dated August 7, 2001 (hereinafter the AML/CFT Law).

Among other things, this Law:

- Establishes the national money laundering and terrorist financing (ML/FT) prevention system;
- Defines the responsibilities of financial institutions and other entities engaged in financial transactions for identifying and preventing ML/FT;
- Defines the main objectives, functions and powers of the national financial intelligence unit;
- Regulates international cooperation, including information sharing with foreign competent authorities and provision of mutual legal assistance.

Federal Law No.134-FZ on Amendments to Certain Legislative Acts pertaining to Prevention of Illegal Financial Transactions dated June 28, 2013 (hereinafter Federal Law No.134-FZ) introduced modifications into the legislation for improvement and enhancement of the counter terrorist financing mechanism. Besides that, the said Law contains specific provisions for bringing the Russian anti-terrorism legislation in line with the revised FATF Recommendations adopted in February 2012.

The new provisions integrated in the AML/CFT Law by Federal Law No.134-FZ cover a number of aspects, including government registration of legal entities, additional monitoring by the government authorities and liability of mala fade entities.

Special mention should be made of the procedure of practical freezing (restraining) of funds or other assets of individuals and legal entities known to be linked to extremist activities or terrorism, along with the transaction suspension mechanism.

The procedure of compiling the list of legal entities and individuals known to be linked to extremist activities or terrorism (hereinafter the List) and its dissemination to entities engaged in transactions with funds or other assets is governed by the Regulation on Listing Legal Entities and Individuals Known to be Linked to Extremist Activities or Terrorism and Disseminating the List to Entities Engaged in Transactions with Funds or Other Assets adopted by RF Government Resolution No.27 of 18.01.2003 (hereinafter the Regulation).

Pursuant to this Regulation the Federal Financial Monitoring Services (Rosfinmonitoring):

- Lists and delists legal entities and (or) individuals on the grounds specified in Article 6 (2.1) and (2.2) of the AML/CFT Law, as advised by the government authorities;
- Updates the List to reflect changes, adjustments or extension of the designated legal entities and (or) individuals, as advised by the government authorities.

Information regarding the grounds for listing and delisting legal entities and (or) individuals (specified in Article 6 (2.1) and (2.2) of the AML/CFT Law) as well as information for updating the List is provided to Rosfinmonitoring by the RF General Prosecutor's Office, Investigative Committee, Ministry of Justice, Federal Security Service, Ministry of Internal Affairs and Ministry of Foreign Affairs.

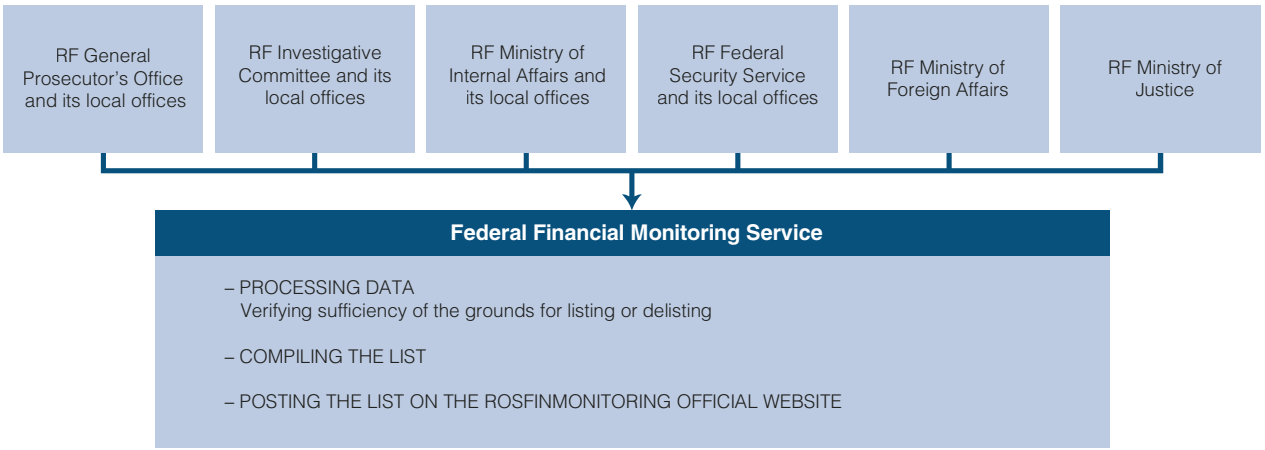
Pursuant to the AML/CFT Law credit and other institutions that are subject to this Law (hereinafter credit and non-credit institutions) are obliged to freeze (restrain) funds or other assets without delay, but not later than one business day following publication of information on listing of the relevant entity or individual on the official website of the AML/CFT designated authority, i.e. Rosfinmonitoring (www.fedsfm.ru). The freezing measures taken by credit and non-credit institutions shall prevent transactions with funds or other assets by the listed entity or individual served by the relevant institution.

Besides that, the AML/CFT Law requires credit and non-credit institutions to freeze (restrain) funds or other assets owned by an entity or individual in compliance with the freezing decision made by the Inter-Agency Coordinating Authority in charge of combating the financing of terrorism (hereinafter the Inter-Agency Coordinating Authority).

The statute of and membership in this Inter-Agency Coordinating Authority are adopted by the RF President.

The Inter-Agency Coordinating Authority determines whether or not there are sufficient grounds to suspect an entity or individual of being

Process of Compiling the List of Entities and Individuals Known to be Linked to Extremist Activities or Terrorism



linked to terrorist activities (including terrorist financing) based on the information provided by the relevant federal executive agencies.

Rosfinmonitoring is obliged to post a freezing decision made by the Inter-Agency Coordinating Authority on its official website, without delay.

It should be noted that the AML/CFT Law still contains the provisions that oblige credit and non-credit institutions to suspend transactions with funds or other assets (except for crediting the incoming funds transferred to accounts of an individual or a legal entity) for five business days following the day when a customer's instruction on execution of such transaction should be complied with.

To ensure that an individual whose funds or other assets have been frozen as well as his/her dependent family members are able to cover their basic expenses the relevant amendments and modifications were introduced into the AML/CFT Law *(by Federal Law No.403-FZ of 28.12.2013 on Amendments to the Federal Law on National Payment System and the AML/CFT Law*). According to these amendments individuals included in the Russian national List (*in compliance with clause 2.1 (2), (4) and (5) of the AML/CFT Law*) are allowed to carry out transactions with funds or other assets related to receiving and spending wages in amount not exceeding 10,000 rubles per calendar month per each dependent family member, while transactions with funds related to receiving and spending pension, educational allowance, social benefits as well as transactions related payment of taxes, fines and other mandatory payments by such individuals may be carried out regardless of their amount.

This decision is based on the provisions of UN Security Council Resolution 1452 (2002) and Section D (10) of the Interpretive Note to the FATF 6th Recommendation according to which individuals whose funds or other assets have been frozen (restrained) shall be granted access to funds necessary for basic expenses, including payments for foodstuffs, medicines and medical treatment, taxes, insurance premiums, and public utility charges.

A decision to unfreeze funds or other assets of an entity or individual who are liable to freezing measures is made by a credit or non-credit institution following removal of such entity or individual from the List.

Besides that, Rosfinmonitoring is empowered to request a court to authorize suspension of transactions on (deposit) account and other transactions with funds or other assets of entities or individuals who are found, in a manner established by the AML/CFT Law, to be linked to extremist activities or terrorism, or of legal persons that are, directly or indirectly, owned or controlled by such entities or individuals, or of natural or legal persons acting on behalf of or at the direction of such entities and individuals.

The provisions of the AML/CFT Law that establish the freezing and suspension obligations fully apply to individual entrepreneurs operating in the capacity of insurance brokers, dealers in precious metal, stones, jewellery and scrap thereof and real estate agents.

Besides that, Federal Law No.302-FZ of 02.11.2013 on Amendments to Certain Legislative Acts of the Russian Federation extended the grounds for

Grounds for Listing Entities and Individuals Known to be Linked to Extremist Activities or Terrorism

- Valid ruling of the RF court to liquidate or ban the activities of an organization due to its association with extremist activities;
- Valid conviction of a person by the RF court for committing at least one of the criminal offences punishable under articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the RF Criminal Code;
- Decision made by the RF General Prosecutor, his subordinate prosecutors or by the federal government registration authority (or its local office) to suspend the activities of an organization following the request filed by the said prosecutors with the court to hold the organization liable for extremist activities;
- Formal accusation of a person, under the established criminal procedure, of committing at least one of the criminal offences punishable under articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the RF Criminal Code;
- Order of an investigator to formally accuse/ charge a person with committing at least one of the criminal offences punishable under articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the RF Criminal Code;
- Lists of entities and individuals linked to terrorist organizations or terrorists compiled by the international anti-terrorist organizations or by their authorized bodies and recognized by the Russian Federation;
- Convictions or rulings of courts and decisions of other competent authorities of foreign countries in respect of entities or individuals involved in terrorist activities recognized by the Russian Federation under the international treaties (agreements) signed by Russia and the Russian federal legislation.

designation by imposing criminal liability for such types of terrorist activities as:

- Undergoing training for carrying out terrorist activities (Article 205.3 of the RF Criminal Code);
- Establishment of a terrorist group, i.e. a stable group of persons who united in advance for carrying out terrorist activities, or for preparing or committing one or several criminal offences punishable under Articles 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279 and 360 of the RF Criminal Code, or participating in such criminal offence(s) (Article 205.4 of the RF Criminal Code);
- Arrangement of and participation in operations of an organization that is recognized as the terrorist organization under the Russian Legislation (Article 205.5 of the RF Criminal Code).

Thus, Federal Law No.134-FZ established strict requirements (that are fully in line with the international standards) for ensuring transparency and optimizing the mechanisms of monitoring designated entities and individuals, legal entities that are, directly or indirectly, owned or controlled by designated entities or individuals and natural or legal persons acting on behalf of or at the direction of designated entities and individuals.

It should be noted that enforcement of the new provisions of the federal legislation showed that

The term "freezing (restraining) of funds or other assets" means:

- Freezing (restraining) of non-cash funds or uncertified (book-entry) securities means that owners, entities engaged in transactions with funds or other assets as well as other individuals and legal entities are prohibited from carrying out transactions with such funds or securities owned by an entity or individual included in the List of entities and individuals known to be linked to extremist activities or terrorism, or by an entity or individual who are reasonably suspected of being linked to terrorist activities (including financing of terrorism), but do not qualify for designation (inclusion in the List).
- Freezing (restraining) of assets means that owners or holders of such assets and entities engaged in transactions with funds or other assets are prohibited from carrying out transactions with such assets owned by an entity or individual included in the List of entities and individuals known to be linked to extremist activities or terrorism, or by an entity or individual who are reasonably suspected of being linked to terrorist activities (including financing of terrorism), but do not qualify for designation (inclusion in the List).

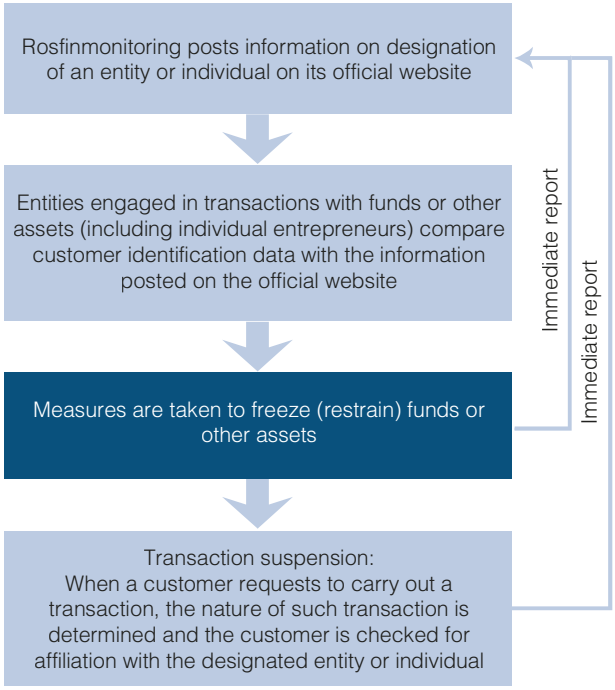
credit institutions promptly enough froze funds of the designated entities and individuals.

In particular, since the adoption of these provisions, credit institutions froze (restrained) over 1.5 thousand accounts of the entities and individuals included in the List.

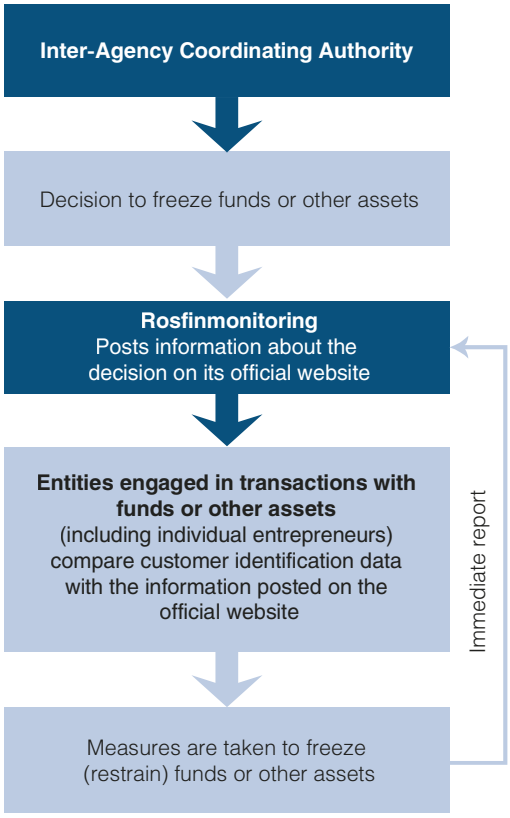
The following should be noted with regard to effectiveness of practical suspension of transactions of persons affiliated with the designated entities and individuals (the so-called associates) by court rulings. The integrated approach applied jointly with the law enforcement agencies yielded positive results. For example, a number of court rulings were issued for suspending financial operations of persons who acted under control or at the direction of the designated entities and individuals.

Enhancement of international cooperation pertaining to identification of potential channels used for funding extremist activities and terrorism with involvement of persons controlled by or acting at the direction of the designated entities and individuals will improve effectiveness of proactive judicial measures applied for preventing extremist and terrorist related offences.

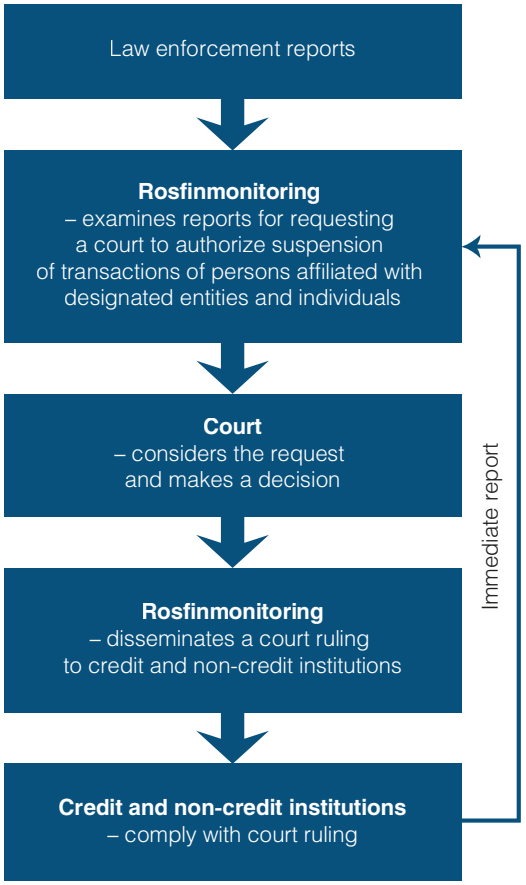
Freezing of Funds or Other Assets and Suspension of Transactions by Rosfinmonitoring's Resolution



Freezing of Funds by Decision of the Inter-Agency Coordinating Authority



Transaction Suspension by Court Ruling



Annex 63

Protocol to the Minsk Convention on Legal Aid and Legal Relations on Civil, Family and Criminal Matters of 1993 (28 March 1997)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

PROTOCOL
of 28 March 1997
TO THE CONVENTION ON LEGAL AID AND LEGAL RELATIONS ON CIVIL, FAMILY AND CRIMINAL MATTERS OF 22 JANUARY 1993

The States Parties to the Convention on Legal Aid and Legal Relations on Civil, Family and Criminal Matters of 22 January,1993

agreed to make the following amendments and additions to the said Convention:

. . .

7. Article 19 shall be amended as follows:

"Article 19
Refusal in granting legal aid

The request about granting legal aid may be rejected partially or entirely, if granting such aid may inflict damage to the sovereignty or security, or contradicts the legislation of the requested Contracting Party. If the request for legal assistance is denied, the requesting Contracting Party shall be promptly notified of the reasons for the denial.".

[. . .]

Annex 64

United States Department of the Army, *Military Operations on Urbanized Terrain (MOUT), Field Manual 90-1* (15 August 1979)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

FIELD MANUAL
90—10

*FM 90—10

HEADQUARTERS
DEPARTMENT OF THE ARMY
Washington, DC, 15 August 1979

Military Operations on Urbanized Terrain (MOUT)

Commanders must be prepared to fight on terrain which is constantly being modified by man to meet his needs. In urbanized regions, commercial and industrial complexes continue to spread across the ground over which forces must maneuver. Growing villages and towns straddle lines of communication. Opportunities for wide sweeps around built-up areas are decreasing rapidly. The distribution of smaller built-up areas within the urban complex make isolation by encirclement increasingly difficult. These manmade elements of urban sprawl must be viewed as terrain and as obstacles to maneuver.

Military Operations on Urbanized Terrain include all military actions that are planned and conducted on a terrain complex where manmade construction impacts on the tactical options available to the commander.

The urbanized battlefield can, and must, be viewed from two perspectives. The first is that of brigade and higher commanders. This view focuses on the elements of urban sprawl. As the physical dimensions of assigned areas of responsibility expand, an increasingly diverse terrain complex is encompassed. Manmade features, including built-up areas of different sizes and types, along with supporting networks of lines of communication, are mixed in ever-changing proportions with natural terrain. The resulting heterogeneous terrain complex, which may range from a predominantly rural mix to one basically metropolitan in form, must be viewed as a whole. The urban characteristics of the terrain may have a decisive influence on tactical planning.

The second perspective is that of the maneuver battalion commander and his subordinates. More limited in scope, it focuses on a basically homogeneous piece of terrain that directly influences the

*This publication supersedes FM 31-50, 10 March 1964, including all changes.

nature of combat to be waged. On the urban battlefield, the full range of manmade and natural terrain forms exists. At the most favorable end of the scale, a combination of small built-up areas and lines of communication may provide a supportive framework for fitting the ground tactical plan to the terrain. The other end of this spectrum is capped by a single urban feature which would totally involve maneuver units in combat-in-cities.

This manual addresses both perspectives and their interrelationships. It supplements the basic ***How-to-Fight*** manuals describing urban terrain and the application of tactical principles at all echelons from division to fire team. The manual treats organization and weapons as they exist, telling commanders what the new requirements are, the nature of the threat, and how they can respond effectively. It provides basic doctrine, tactics, techniques, and procedures of employment for command of the combined arms team during offensive and defensive operations in an urban environment.

Provisions of this publication are the subject of international standardization agreements (See Appendix H for listing). When amendment, revision, or cancellation of this publication is proposed which will affect or violate the international agreement concerned, the preparing activity will take appropriate reconciliation action through international standardization channels.

Readers are encouraged to submit substantive comments and recommended changes on DA Form 2028. Submit directly to Commander, US Army Combined Arms Center, ATTN: ATZLCA-DL, Fort Leavenworth, Kansas 66027.

The word "he" or "his" in this publication is intended to include both the masculine and feminine genders and any exception to this will be so noted.

FM 90—10

Military Operations on Urbanized Terrain (MOUT)

Table of Contents

CHAPTER 1
INTRODUCTION

Tactical doctrine stresses that urban combat operations are conducted *only* when required and that built-up areas are *isolated* and *bypassed* rather than risking a costly, time-consuming operation in this difficult environment. Adherence to these precepts, though valid, is becoming increasingly difficult as urban sprawl changes the face of the battlefield. The acronym MOUT (Military Operations on Urbanized Terrain) classifies those military actions planned and conducted on a terrain complex where manmade construction impacts on the tactical options available to commanders. Commanders must treat the elements of urban sprawl as terrain and know how this terrain affects the capabilities of their units and weapons. They must understand the advantages and disadvantages urbanization offers and its effects on tactical operations.

Urban combat operations may be conducted in order to capitalize on the strategic or tactical advantages which possession or control of a particular urban area gives or to deny these advantages to the enemy. Major urban areas represent the power and wealth of a particular country in the form of industrial bases, transportation complexes, economic institutions, and political and cultural centers. The denial or capture of these centers may yield decisive psychological advantages that frequently determine the success or failure of the larger conflict. Villages and small towns will often be caught up in the battle because of their proximity to major avenues of approach or because they are astride lines of communications that are vital to sustaining ground combat operations.

During offensive operations, commanders must seek to achieve a favorable mobility differential over the defender, to retain momentum, and to avoid a protracted and costly urban battle. Built-up areas are obstacles to maneuver; hence, isolation and bypass, which neutralize their value to the defender, are the goals of urban offensive operations.

Conversely, the defender must seek to integrate the elements of urban sprawl into his defensive scheme to slow, block, or canalize the attacker and enhance weapon effectiveness.

The attack or defense of a built-up area should be undertaken only when significant tactical or strategic advantage accrues through its seizure or control.

CONTENTS

Annex 65

United States Department of the Army, *An Infantryman's Guide to Combat in Built-up Areas, Field Manual 90-10-1* (12 May 1993)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

FIELD MANUAL
No. 90-10-1

HEADQUARTERS
DEPARTMENT OF THE ARMY
Washington, DC, 12 May 1993

AN INFANTRYMAN'S GUIDE TO COMBAT IN BUILT-UP AREAS

CONTENTS

*This publication supersedes FM 90-10-1, 30 September 1982.

page

Change 1

HEADQUARTERS
DEPARTMENT OF THE ARMY
Washington, DC, 3 0ctober 1995

AN INFANTRYMAN'S GUIDE TO COMBAT IN BUILT-UP AREAS

1. Change FM 90-10-1, 12 May 1993, as follows:

Remove old pages	Insert new pages
i through ii	i through ii
v through vii	v through vii
F-5 through F-6	F-5 through F-6
G-1 through G-10	G-1 through G-7
	J-1 through J-10
	K-1 through K-24
	L-1 through L-4
	M-1 through M-8
	N-1 through N-4
Glossary 1 through Glossary 5	Glossary 1 through Glossary 5

2. A star (*) marks new or changed material.

3. File this transmittal sheet in front of the publication.

DISTRIBUTION RESTRICTION: Approved for public release; distribution is unlimited.

By Order of the Secretary of the Army:

DENNIS J. REIMER
General, United States Army
Chief of Staff

Official:

JOEL B. HUDSON
Acting Administrative Assistant to the Secretary of the Army
00822

DISTRIBUTION:
Active Army, USAR, and ARNG: To be distributed in accordance with DA Form 12-11E, requirements for FM 90-10-1, An Infantryman's Guide to Combat in Built-Up Areas (Qty rqr block no. 1232).

*PREFACE

The urban growth in all areas of the world has changed the face of the battlefield. Military operations on urbanized terrain (MOUT) constitute the battlefield in the Eurasian continent. It includes all man-made features (cities, towns, villages) as well as natural terrain. Combat in built-up areas focuses on fighting for and in those cities, towns, and villages.

The probability is great that United States forces will become engaged by enemy forces who are intermingled with the civilian population. Therefore, units using the techniques outlined in this manual under these conditions must obey the rules of engagement issued by their headquarters and the laws of land warfare. Infantry commanders and staffs should concentrate on the skills contained in Chapters 3 through 5 as they train their units.

This manual provides the infantryman with guidelines and techniques for fighting against an organized enemy in built-up areas who may or may not be separated from the civilian population. Some techniques for dealing with insurgents, guerrillas, and terrorists are included; however, the manuals which best address these issues are FM 7-98 and FM 90-8. This manual does not address any techniques for missions that require the restoration of order to urban areas. Information and techniques to accomplish this mission are addressed in FM 19-15.

The proponent of this publication is the US Army Infantry School. Send comments and recommendations on DA Form 2028 directly to Commandant, US Army Infantry School, ATTN: ATSH-ATD, Fort Benning, Georgia 31905-5410; E-mail DURANTEA @ Benning-emh2.army.mil; FAX DSN 835-7500; and DSN 835-7114/4539 or commercial 1-706-545-7114/4539.

Unless this publication states otherwise, masculine nouns and pronouns do not refer exclusively to men.

CHAPTER 1

INTRODUCTION

The increased population and accelerated growth of cities have made the problems of combat in built-up areas an urgent requirement for the US Army. This type of combat cannot be avoided. The makeup and distribution of smaller built-up areas as part of an urban complex make the isolation of enemy fires occupying one or more of these smaller enclaves increasingly difficult. MOUT is expected to be the future battlefield in Europe and Asia with brigade- and higher-level commanders focusing on these operations. This manual provides the infantry battalion commander and his subordinates a current doctrinal source for tactics, techniques, and procedures for fighting in built-up areas.

Section I. BACKGROUND

Friendly and enemy doctrine reflect the fact that more attention must be given to urban combat. Expanding urban development affects military operations as the terrain is altered. Although the current doctrine still applies, the increasing focus on operations short of war, urban terrorism, and civil disorder emphasizes that combat in built-up areas is unavoidable.

1-1. AIRLAND BATTLE

AirLand Battle doctrine describes the Army's approach to generating and applying combat power at the operational and tactical levels. It is based on securing or retaining the initiative and exercising it aggressively to accomplish the mission. The four basic AirLand Battle tenets of initiative, agility, depth, and synchronization are constant. During combat in built-up areas, the principles of AirLand Battle doctrine still apply—only the terrain over which combat operations will be conducted has changed.

1-2. DEFINITIONS

MOUT is defined as all military actions that are planned and conducted on terrain where man-made construction affects the tactical options available to the commander. These operations are conducted to defeat an enemy that may be mixed in with civilians. Therefore, the rules of engagement (ROE) and use of combat power are more restrictive than in other conditions of combat. Due to political change, advances in technology, and the Army's role in maintaining world order, MOUT now takes on new dimensions that previously did not exist. These new conditions affect how units will fight or accomplish their assigned missions. The following definitions provide clarity and focus for commanders conducting tactical planning for MOUT. The terms "surgical MOUT operations" and "precision MOUT operations" are descriptive in nature only. These are conditions of MOUT, not doctrinal terms.

a. Built-Up Area. A built-up area is a concentration of structures, facilities, and people that forms the economic and cultural focus for the surrounding area. The four categories of built-up areas are large cities, towns and small cities, villages, and strip areas.

b. Surgical MOUT. These operations are usually conducted by joint special operation forces. They include missions such as raids, recovery

operations, rescues, and other special operations (for example, hostage rescue).

c. Precision MOUT. Conventional forces conduct these operations to defeat an enemy that is mixed with noncombatants. They conduct these operations carefully to limit noncombatant casualties and collateral damage. Precision MOUT requires strict accountability of individual and unit actions through strict ROE. It also requires specific tactics, techniques, and procedures for precise use of combat power (as in Operation Just Cause). (See Appendix G for more detailed information.)

1-3. CITIES

Cities are the centers of finance, politics, transportation, communication, industry, and culture. Therefore, they have often been scenes of important battles (Table 1-1).

	CITY	YEAR		CITY	YEAR
	RIGA	1917		BUDAPEST	1956
	MADRID	1936	*	BEIRUT	1958
	WARSAW	1939	*	SANTO DOMINGO	1965
	ROTTERDAM	1940	*	SAIGON	1968
	MOSCOW	1942	*	KONTUM	1968
	STALINGRAD	1942	*	HUE	1968
	LENINGRAD	1942		BELFAST	1972
	WARSAW	1943		MONTEVIDEO	1972
*	PALERMO	1944		QUANGTRI CITY	1972
*	BREST	1944		AN LOC	1972
	WARSAW	1944		XUAN LOC	1975
*	AACHEN	1944		SAIGON	1975
	ORTONA	1944		BEIRUT	1975-1978
*	CHERBOURG	1944		MANAGUA	1978
	BRESLAU	1945		ZAHLE	1981
*	WEISSENFELS	1945		TYRE	1982
	BERLIN	1945	*	BEIRUT	1983
*	MANILA	1945	*	PANAMA CITY	1989-1990
*	SAN MANUEL	1945	*	COLON	1989-1990
*	SEOUL	1950	*	KUWAIT CITY	1991

*Direct US Troop Involvement

Table 1-1. Cities contested during twentieth century conflicts.

a. Operations in built-up areas are conducted to capitalize on the strategic and tactical advantages of the city, and to deny those advantages to the enemy. Often, the side that controls a city has a psychological advantage, which can be enough to significantly affect the outcome of larger conflicts.

b. Even in insurgences, combat occurs in cities. In developing nations, control of only a few cities is often the key to control of national resources. The city riots of the 1960's and the guerrilla and terrorist operations in Santo Domingo, Caracas, Belfast, Managua, and Beirut indicate the many situations that can result in combat operations in built-up areas.

c. Built-up areas also affect military operations because of the way they alter the terrain. In the last 40 years, cities have expanded, losing their well-defined boundaries as they extended into the countryside. New road systems have opened areas to make them passable. Highways, canals, and railroads have been built to connect population centers. Industries have grown along those connectors, creating "strip areas." Rural areas, although retaining much of their farm-like character, are connected to the towns by a network of secondary roads.

d. These trends have occurred in most parts of the world, but they are the most dramatic in Western Europe. European cities tend to grow together to form one vast built-up area. Entire regions assume an unbroken built-up character, as is the case in the Ruhr and Rhein Main complex. Such growth patterns block and dominate the historic armor avenues of approach, or decrease the amount of open maneuver area available to an attacker. It is estimated that a typical brigade sector in a European environment will include 25 small towns, most of which would lie in the more open avenues of approach (Figure 1-1).

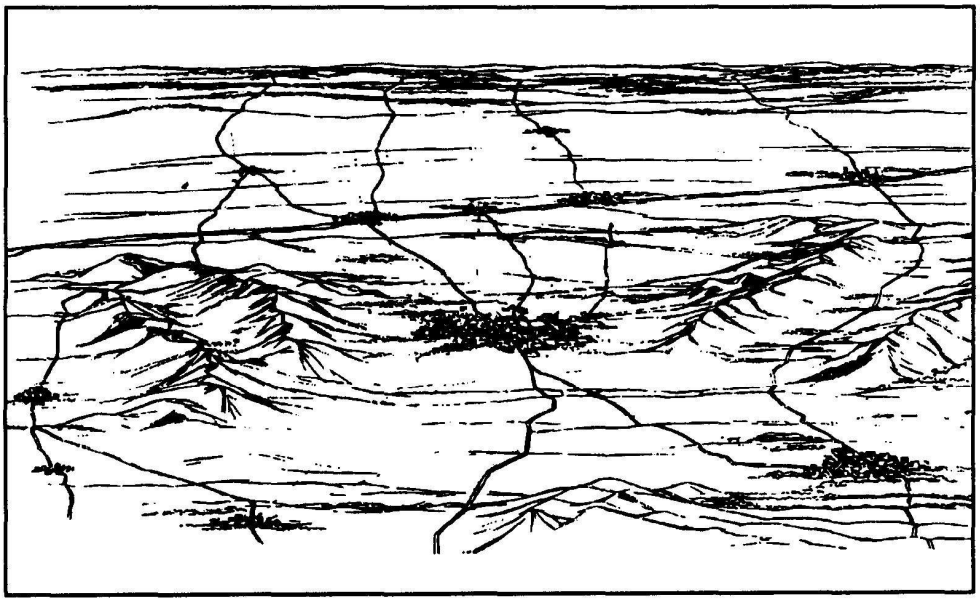


Figure 1-1. Urban areas blocking maneuver areas.

e. Extensive urbanization provides conditions that a defending force can exploit. Used with mobile forces on the adjacent terrain, antitank forces defending from built-up areas can dominate avenues of approach, greatly improving the overall strength of the defense.

f. Forces operating in such areas may have elements in open terrain, villages, towns, or small and large cities. Each of these areas calls for different tactics, task organization, fire support, and CSS.

1-4. THE THREAT IN BUILT-UP AREAS

The Commonwealth of Independent States and other nations that use Soviet doctrine have traditionally devoted much of their training to urban combat exercises. Indications are that they believe such combat is unavoidable in

future conflicts. But, the threat of combat in built-up areas cannot be limited to former Soviet doctrine. Throughout many Third World countries, the possibility of combat in built-up areas exists through acts of insurgents, guerrillas, and terrorists. (Information on operations in this environment is found in the reference list.)

Section II. CHARACTERISTICS AND CATEGORIES OF BUILT-UP AREAS

One of the first requirements for conducting operations in built-up areas is to understand the common characteristics and categories of such areas.

1-5. CHARACTERISTICS

Built-up areas consist mainly of man-made features such as buildings. Buildings provide cover and concealment, limit fields of observation and fire, and block movement of troops, especially mechanized troops. Thick-walled buildings provide ready-made, fortified positions. Thin-walled buildings that have fields of observation and fire may also be important. Another important aspect is that built-up areas complicate, confuse and degrade command and control.

a. Streets are usually avenues of approach. However, forces moving along streets are often canalized by the buildings and have little space for off-road maneuver. Thus, obstacles on streets in towns are usually more effective than those on roads in open terrain since they are more difficult to bypass.

b. Subterranean systems found in some built-up areas are easily overlooked but can be important to the outcome of operations. They include subways, sewers, cellars, and utility systems (Figure 1-2).

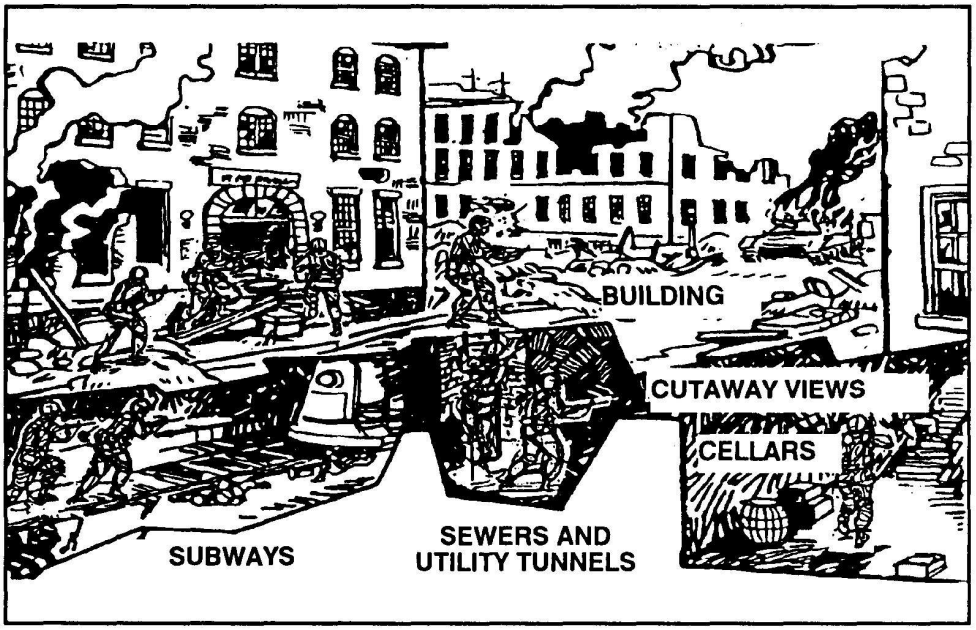


Figure 1-2. Underground systems.

1-6. CATEGORIES

Built-up areas are classified into four categories:

- Villages (population of 3,000 or less).
- Strip areas (urban areas built along roads connecting towns or cities).
- Towns or small cities (population up to 100,000 and not part of a major urban complex).
- Large cities with associated urban sprawl (population in the millions, covering hundreds of square kilometers).

Each area affects operations differently. Villages and strip areas are commonly encountered by companies and battalions. Towns and small cities involve operations of entire brigades or divisions. Large cities and major urban complexes involve units up to corps size and above.

Section III. SPECIAL CONSIDERATIONS

Several considerations are addressed herein concerning combat in built-up areas.

1-7. BATTLES IN BUILT-UP AREAS

Battles in built-up areas usually occur when—

- A city is between two natural obstacles and there is no bypass.
- The seizure of a city contributes to the attainment of an overall objective.
- The city is in the path of a general advance and cannot be surrounded or bypassed.
- Political or humanitarian concerns require the seizure orretention of a city.

1-8. TARGET ENGAGEMENT

In the city, the ranges of observation and fields of fire are reduced by structures as well as by the dust and smoke of battle. Targets are usually briefly exposed at ranges of 100 meters or less. As a result, combat in built-up areas consists mostly of close, violent combat. Infantry troops will use mostly light and medium antitank weapons, automatic rifles, machine guns, and hand grenades. Opportunities for using antitank guided missiles are rare because of the short ranges involved and the many obstructions that interfere with missile flight.

1-9. SMALL-UNIT BATTLES

Units fighting in built-up areas often become isolated, making combat a series of small-unit battles. Soldiers and small-unit leaders must have the initiative, skill, and courage to accomplish their missions while isolated from their parent units. A skilled, well-trained defender has tactical advantages over the attacker in this type of combat. He occupies strong static positions, whereas the attacker must be exposed in order to advance. Greatly reduced line-of-sight ranges, built-in obstacles, and compartmented terrain require the commitment of more troops for a given frontage. The troop density for both an attack and defense in built-up areas can be as much as three to five

Annex 66

Second Amended Complaint, *Schansman v. Sberbank of Russia PJSC*, Civ. No. 19-CV-2985 (ALC) (S.D.N.Y. 5 October 2020)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

THOMAS SCHANSMAN, individually, as surviving Parent of QUINN LUCAS SCHANSMAN, and as legal guardian on behalf of X.S., a minor, and

CATHARINA TEUNISSEN, individually, as surviving Parent of QUINN LUCAS SCHANSMAN, and as personal representative of the ESTATE OF QUINN LUCAS SCHANSMAN, and

NERISSA SCHANSMAN, individually, as surviving Sibling of QUINN LUCAS SCHANSMAN,

Plaintiffs,

-against-

SBERBANK OF RUSSIA PJSC, THE WESTERN UNION COMPANY, WESTERN UNION FINANCIAL SERVICES, INC., MONEYGRAM INTERNATIONAL, INC., MONEYGRAM PAYMENT SYSTEMS, INC., and VTB BANK PJSC,

Defendants.

SECOND AMENDED COMPLAINT

JURY TRIAL DEMANDED

Civil No. 19-cv-02985-ALC

Plaintiffs Thomas Schansman, individually, as surviving parent of Quinn Lucas Schansman, and as legal guardian on behalf of minor plaintiff X.S.; Catharina Teunissen, individually, as surviving parent of, and as personal representative of the Estate of, Quinn Lucas Schansman; and Nerissa Schansman, individually, as surviving sibling of Quinn Lucas Schansman, by and through their attorneys, allege upon knowledge as to themselves and their own actions and upon information and belief as to all other matters, as follows:

NATURE OF THIS ACTION

1. On July 17, 2014, the Donetsk People's Republic ("DPR"), a terrorist group operating in eastern Ukraine, launched a surface-to-air missile from territory that it acquired and

controlled through brute force, intimidation, and violent acts. The DPR fired that missile at Malaysia Airlines Flight 17 ("MH17"), a civilian passenger plane traveling from Amsterdam to Kuala Lumpur, killing all 298 passengers on board, including 80 children, and murdering Quinn Lucas Schansman ("Quinn"), a young American.

2. Quinn's family, the Plaintiffs in this action, bring this lawsuit to hold accountable those who provided material support and financing to the murderers of their son and brother.

3. Defendants are corporate entities that provided ongoing and essential financial support to the DPR from around the world, including the United States, for the explicit purpose of purchasing tactical and lethal equipment that was necessary (1) for the DPR to acquire and maintain control over the territory from which it launched the missile that took down the MH17 passenger plane, and (2) to carry out its terrorist activities, including the missile attack on MH17.

4. Defendants provided their services directly to prominent DPR leaders and DPR fundraisers who were unambiguous about their intent: to arm and equip the DPR to carry out terrorist acts in service of undermining the Government of Ukraine, intimidating and coercing civilians, increasing the Russian Federation's control over territory in eastern Ukraine, and ultimately advancing a political and ideological agenda to reestablish the "Russian Empire" through the creation of "Novorossiya" (New Russia).[1]

[1] Novorossiya (or "Novorossia") refers both to an aspirational geographical territory (akin to the Islamic State's ("ISIS") aspirational "Caliphate") as well as a violent extremist political movement. The term is today associated with an effort to create a pro-Russia confederated state through the forceful acquisition of power and control in eastern Ukraine and re-establish a Russian Empire in the area north of the Black Sea in what is now much of southern and eastern Ukraine.

5. As with any terrorist group, the DPR is comprised of and funded by individuals and entities who sponsor and use violence, intimidation, and coercion to achieve political ends (in this case, the creation of so-called "Novorossiya"). At all relevant times, in the months leading up to the attack on MH17, some of the most prominent leaders of the DPR were Igor Strelkov, the "commander-in-chief" of the DPR; Pavel Gubarev, the "governor" of the DPR; and Ekaterina Gubareva, the "foreign minister" of the DPR.

6. At all relevant times, in the months leading up to the attack on MH17, some of the DPR's most prominent fundraisers were Alexander Zhuchkovsky, Boris Rozhin (also known as "Colonel Cassad"), and Alexey Markov (also known as "RedRat").

7. The DPR's leadership worked closely with these and other DPR members to raise funds for the DPR's terrorist activities through a group of coordinated DPR entities, including Center for New Russia, Humanitarian Battalion, Veche, Rospisatel, Essence of Time, Save Donbass, ICORPUS, The Voice of Sevastopol, Sputnik & Pogrom, World Crisis, Women's Battalion of People's Militia Donbass, and People's Militia of New Russia (together, the "DPR's fundraisers"). The DPR's fundraisers were essential both for the DPR to fund its terrorist activities and obfuscate its sources and methods.

8. Collectively, the DPR's leaders, members, entities, financial supporters, and fundraisers constitute the DPR.

9. Defendants provided banking and money transfer services for the DPR while the world's governments and media were intently focused on the DPR's horrific and systematic abuses perpetrated in the name of advancing its vision of Novorossiya. In the months leading up to the MH17 attack, the DPR's occupation of eastern Ukraine and its killing and torture of civilians constituted perhaps the most significant international news event in the world. It was the subject

of nearly constant commentary by highly visible officials including the President of the United States, the Prime Minister of the United Kingdom, the President of France, the Chancellor of Germany, and nearly every major media outlet in the world.

10. The DPR's campaign of terror fundamentally changed the regional order and constituted a major challenge to international security. Despite this sea change in circumstances for governments around the world and civilians in the region, Defendants Sberbank of Russia, Western Union, MoneyGram, and VTB Bank continued to go about their activities, even when it was clear that they were actively providing critical financial resources to a terrorist group (the DPR) for the explicit purpose of buying lethal equipment—equipment that was ultimately used to carry out the attack that killed Quinn.

11. Plaintiffs are the parents and siblings of Quinn, a United States citizen, who was killed when he was just eighteen years old as he was traveling aboard MH17 to meet his parents for a family vacation. Quinn's parents, Thomas and Catharina, both suffered and continue to suffer deep and debilitating psychological and emotional distress due to the senseless murder of their son. Quinn's siblings, Nerissa and X.S., both suffered and continue to suffer deep and debilitating psychological and emotional distress due to the murder of their brother.

12. Defendants are companies that knew, or exhibited deliberate indifference to the fact, that they provided material support to the DPR—a group that openly engaged in terrorist activity and was condemned by governments around the world—and that the support they provided to the DPR would be used to finance the DPR's terrorist actions.

13. The support Defendants provided to the DPR allowed the DPR to acquire lethal equipment, which was used to commit violent acts that endangered human life and appeared

intended to intimidate or coerce civilians and influence the Ukrainian government and other governments seeking to contain Russian aggression.

14. Defendants' provision of material support to the DPR was a substantial factor in the DPR's ability to launch a missile from territory it controlled—an attack that killed Quinn and 297 other innocent victims.

15. By this lawsuit, Plaintiffs challenge Defendants' actions under the Antiterrorism Act, 18 U.S.C. § 2331 *et seq.* (the "ATA"), which Congress enacted in 1992 in response to the terrorist hijacking of the cruise ship Achille Lauro as well as the bombing of Pan Am Flight 103 over Lockerbie, Scotland in 1988.

16. In adopting the ATA, Congress recognized that "reluctant courts and . . . jurisdictional hurdles" had often stymied the ability of victims of international terrorism to obtain redress for their injuries. (136 Cong. Rec. S4568-01 (1990).)

17. According to the ATA's legislative history, "By its provisions for compensatory damages, treble damages, and the imposition of liability at any point along the causal chain of terrorism," the Act was intended to "interrupt, or at least imperil, the flow of money" to groups engaged in acts of international terrorism that injure American citizens. (S. Rep. No. 102-342, at 22 (1992).)

18. As stated by Senator Charles Grassley, Congress enacted the ATA to strike at "the resource that keeps [international terrorists] in business – their money." (138 Cong. Rec. S17252-04 (1992) (statement of Sen. Grassley).)

19. As recently as January 2019, Senator Grassley explained, "The ATA gives U.S. victims of international terrorism their day in court against those who carry out or support terrorism. It provides some semblance of justice and compensation for Americans whose lives have been

forever impacted by terrorism. Equally important, the ATA sends an unambiguous message to deter international terrorism—those who support terrorism will face the full force of the U.S. justice system."[2]

20. Defendants are companies that deliberately ignored what the rest of the world, including the President of the United States, was deeply intent on addressing.

21. The ATA does not permit companies such as Defendants to hide behind invocations of neutrality in their provision of banking and money transfer services in an effort to abdicate responsibility for their role in causing acts of terror.

22. The aim of this lawsuit is to ensure that, as Congress intended, the companies whose conduct resulted in the death of an innocent American at the hands of terrorists are held responsible for their actions.

JURISDICTION AND VENUE

23. This is a civil action under the Antiterrorism Act, 18 U.S.C. § 2331 *et seq*.

24. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 2333(a) as a civil action brought by the estate, survivors, or heirs of a United States citizen injured by reason of an act of international terrorism.

25. Venue is also proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 18 U.S.C. § 2334(a) because Defendants conduct significant business operations in the State of New York and within the Southern District of New York, are subject to the personal jurisdiction

[2] Chuck Grassley, United States Senator for Iowa, "Grassley to Trump: State Dept. Should Put American Victims of Terrorism ahead of PLO," *available at* https://www.grassley.senate.gov/news/news-releases/grassley-trump-state-dept-should-put-american-victims-terrorism-ahead-plo

of the courts in the Southern District of New York, and/or have agents within the Southern District of New York.

26. Defendant The Western Union Company maintains a corporate office in Manhattan, New York. Defendants The Western Union Company, Western Union Financial Services, Inc., MoneyGram International, Inc., and MoneyGram Payment Systems, Inc. maintain numerous agent locations that provide global money transfer services within the Southern District of New York.

27. Defendants Sberbank of Russia PJSC ("Sberbank") and VTB Bank PJSC ("VTB Bank") maintain offices through their subsidiaries in Manhattan, New York. At all relevant times, Defendants Sberbank and VTB Bank deliberately and repeatedly routed U.S. dollar-denominated transactions, including transactions to or on behalf of the DPR, through correspondent bank accounts located in Manhattan, New York.

THE PARTIES

28. Plaintiff Thomas Schansman is Quinn's father. His son was killed by the DPR, a violent terrorist group that received material support and financing from Defendants. He is a citizen of the Netherlands, resides in this district, and is domiciled in the Netherlands. He brings this action on behalf of himself, as a surviving parent of his son, Quinn, a United States citizen.

29. Plaintiff Catharina Teunissen is Quinn's mother. Her son was killed by the DPR, a violent terrorist group that received material support and financing from Defendants. She is a citizen of the Netherlands and is domiciled in the Netherlands. She brings this action on behalf of herself, as a surviving parent of, and as personal representative of the estate of, her son, Quinn, a United States citizen.

30. Plaintiff Nerissa Schansman is Quinn's sister. Her brother was killed by the DPR, a violent terrorist group that received material support and financing from Defendants. She is a citizen of the Netherlands and is domiciled in the Netherlands. She brings this action on behalf of herself, as the surviving sibling of her brother, Quinn, a United States citizen.

31. Plaintiff Thomas Schansman is also a plaintiff on behalf of his minor child, X.S, Quinn's half-brother. X.S. is a citizen of the Netherlands, resides in this district, and is domiciled in the Netherlands.

The Russian State-Owned Bank Defendants

32. At all relevant times, the Government of the Russian Federation, led by President Vladimir Putin, had an official policy of supporting the Novorossiya movement, including the terrorist activities of the DPR.

33. Defendant Sberbank is a Russian state-owned banking institution. It has offices and branches worldwide.

34. At all relevant times, Sberbank maintained offices in New York City through a directly or indirectly controlled subsidiary, which was and is critical to Sberbank's combined corporate structure and operations.

35. Sberbank operates in the United States and New York through its subsidiary Sberbank CIB USA Inc. ("Sberbank CIB"), which is located at 152 W. 57th Street, 46th Floor, New York, New York 10019.

36. Sberbank advertises itself as an international "Group" covering 20 countries with more than 11 million customers outside of Russia, and lists its New York office as a means of contacting the Sberbank Group.

photograph of Quinn. Quinn's remains were finally returned to Plaintiffs a month after his death, at which point Plaintiffs planned and held a second funeral for Quinn.

87. Plaintiffs each endured extraordinary emotional distress and anguish in the aftermath of Quinn's murder, and Quinn's siblings continue to struggle with feelings of intense anxiety when they or their parents travel by plane.

II. The DPR's Violent Campaign of Intimidation and Coercion Against Civilians, the Ukrainian Government, and Other Governments Seeking to Contain Russian Aggression

88. Like other terrorist groups, such as the Islamic State ("ISIS"), the DPR and its affiliates seek to advance an ideological agenda of Russian supremacy by creating a proto-state, Novorossiya, through the control of territory in Ukraine acquired through acts of intimidation and coercion.

89. Since the dissolution of the Soviet Union in 1991, there have been periodic attempts by ideological extremists to recreate Novorossiya as a separate state, often buoyed by support from former Soviet and current Russian officials. In 2005, Russian President Vladimir Putin famously described the breakup of the Soviet Union as the "greatest geopolitical catastrophe of the 20th century."

90. The Novorossiya movement failed to gain much traction until a popular protest movement managed to unseat then-Ukrainian President Viktor Yanukovych, causing Russia to seek to expand its influence in Ukraine.

91. In February 2014, pro-Russian Novorossiya-inspired demonstrations began in the Ukrainian region of Crimea. On or about March 16, 2014, Russia purportedly annexed Crimea.

92. In March 2014, demonstrations by pro-Russian and anti-Ukrainian government groups spread to the Donetsk and Luhansk regions in eastern Ukraine. Together, those regions are commonly referred to as the "Donbass."

93. As early as March 3, 2014, Novorossiya-aligned terrorists occupied the Donetsk regional legislative building. The terrorists were led by Pavel Gubarev, the founder of the so-called "People's Militia of Donbass," who demanded that he be made the head of Donetsk's regional government. Gubarev soon thereafter proclaimed himself the "governor" of the DPR.

94. In announcing sanctions on Pavel Gubarev in 2014, the United States Treasury Department explained that "Gubarev has been described as one of the three most prominent leaders of the separatists in southeast Ukraine," and noted that he "is responsible for or complicit in, or has engaged in, actions or polices [*sic*] that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine and is a leader of an entity that has, or whose members have, engaged in actions or policies that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine."[14]

95. Roughly contemporaneous with the inception of the DPR, pro-Russia armed terrorists in the Luhansk region declared the creation of the Luhansk People's Republic ("LPR").

96. The DPR and the LPR, along with other similar groups, formed a cartel that terrorized—and continues to terrorize—civilians to advance the violent agenda of the Novorossiya political movement. The DPR and its affiliated groups are dedicated to using violent means to achieve their goal of rebuilding the Russian Empire.

[14] U.S. Department of the Treasury, "Treasury Targets Additional Ukrainian Separatists and Russian Individuals and Entities," *available at* https://www.treasury.gov/press-center/press-releases/Pages/jl9729.aspx

97. The DPR has publicly decried countries seeking to contain Russian aggression, including the member states of the North Atlantic Treaty Organization ("NATO")—and in particular the United States—as its enemies.

98. The DPR leader Igor Strelkov (Girkin) has himself described the work of the DPR as carrying out violent acts intended to affect government policy and intimidate civilians around the world, including in a post online titled, "The manifesto of the public movement 'Novorossiya' Igor Strelkov."

99. In this "manifesto," Strelkov wrote that "we are fighting for the preservation of the Russian World, for the revival of Great, United Russia," and that "[a]s part of the Movement, we organize actions in support of the fighting New Russia in various regions of Russia and beyond." Strelkov further wrote that this political movement was fighting against a "foreign policy enemy - NATO, led by the United States."[15]

100. From its inception, the DPR and its affiliates, including the LPR and other groups, have exhibited a pattern and practice of attacking and intimidating civilians. The DPR engaged (and continues to engage) in violent acts of intimidation against the civilian population and operated (and continues to operate) with no regard for civilian life, often murdering and torturing civilians.

101. On June 12, 2018, Ukraine submitted a "Memorial" to the International Court of Justice ("ICJ") (hereinafter, "Government of Ukraine's Brief") regarding violations of the International Convention for the Suppression of the Financing of Terrorism, a treaty ratified by

[15] Forum Novorossia, "The Manifesto of the Public Movement 'Novorossiya' Igor Strelkov," *available at* http://forum-novorossia.ru/index.php/topic/87-manifest-obschestvennogo-dvizheniia-%C2%ABnovorossiia%C2%BB/

the United States in 2002.[16] As Ukraine explained: "From their earliest days, the DPR and the LPR committed acts of violence and intimidation targeted at civilians in furtherance of their political objectives and their attempt to consolidate control over areas of Ukrainian territory. Terrorist acts form a key element of their *modus operandi*." (Government of Ukraine's Brief ¶ 42.)

102. For example, on April 17, 2014 the DPR abducted, tortured, and murdered Volodymyr Rybak, a town councilor from Horlivka, after he attempted to raise the Ukrainian flag outside of town hall. Igor Bezler, a high ranking DPR "commander," ordered the abduction, and Igor Strelkov ordered the disposal of the body. Mr. Rybak's body was eventually found by a river, alongside the body of Yuriy Propavko, a 19-year-old student and activist from Kyiv.[17]

103. The DPR's reign of terror immediately became a prominent international crisis. In the months that followed, international monitors and human rights organizations attributed thousands of civilian deaths and injuries as well as widespread human rights abuses to the DPR and its affiliated groups.

III. Prior to the DPR's Terrorist Attack on MH17, Defendants Knew About the DPR's Terrorist Activities

A. Prior to the DPR's Terrorist Attack on MH17, the DPR's Terrorist Activities Were Widely Known and Extensively Reported on by the International Media

104. Since 2014, the DPR has openly, publicly, and repeatedly carried out terrorist attacks on civilians. The terrorist acts perpetrated by the DPR and its affiliates were widely reported on and discussed by nearly every government in the world, as well as by international media, multilateral entities, and human rights organizations. The DPR's pattern and practice of

[16] International Court of Justice, "Government of Ukraine's Brief," *available at* https://www.icj-cij.org/files/case-related/166/166-20180612-WRI-01-00-EN.pdf

[17] The Daily Beast, "'In Cold Blood' in Ukraine," *available at* https://www.thedailybeast.com/in-cold-blood-in-ukraine

carrying out terrorist attacks on civilians were therefore notorious and well-known to Defendants and the general public.

105. On March 3, 2014, months before the attack that killed Quinn, the *New York Times* reported on Pavel Gubarev's role as a terrorist leader in the Donbass. A couple of months later, on May 8, 2014, the *Washington Post* published an article profiling some of the leadership of the DPR. Among those profiled were Gubarev, described as the self-declared "people's governor" of the DPR, and his wife, Ekaterina Gubareva, described as the "foreign minister of the Donetsk People's Republic."[18] At all relevant times, this information was available to Defendants and the public at large.

106. A May 14, 2014 article in *The Independent* titled, "Ukraine crisis: Kidnappings abound as the Donbass falls further into anarchy," reported on a series of civilian abductions perpetrated by the DPR and its affiliates in the Donbass, including dozens of political prisoners kept in terrorist strongholds and used as media propaganda. The May 14, 2014 article includes references to, and pictures of, the DPR possessing tactical and lethal equipment, including masks, "combat uniforms," and "Kalashnikov [rifles]." These are among the types of equipment that the DPR expressly solicited funds to purchase with Defendants' material support.

107. At all relevant times, this information was available to Defendants and the public at large, including the fact that money raised with the Defendants' material support was being utilized to purchase lethal equipment that the DPR used to commit violent acts, or acts dangerous to human life, intended to intimidate or coerce civilians and influence the Ukrainian government and other governments seeking to contain Russian aggression.

[18] Washington Post, "Meet the Nobodies Who Said No to Putin," *available at* https://www.washingtonpost.com/news/worldviews/wp/2014/05/08/meet-the-nobodies-who-said-no-to-putin/

108. A June 18, 2014 article in *The Telegraph* titled, "Beaten and threatened: the 'Donetsk People's Republic turns on city's priest," reported that the DPR was persecuting clergy members who did not follow the Russian Orthodox Church. The article recounted how one priest was interrogated and repeatedly assaulted "with clubs and whips." The DPR also "threatened to break the priest's fingers with a hammer." Another priest was "kidnapped in broad daylight" and interrogated, after which he fled Ukraine. The June 18, 2014 article includes references to, and pictures of, the DPR possessing the types of equipment—including combat uniforms, guns, and rifle scopes—which the DPR solicited funds to purchase with Defendants' material support.

109. At all relevant times, this information was available to Defendants and the public at large, including the fact that money raised with Defendants' knowing material support was being utilized to purchase lethal equipment that the DPR used to commit violent acts, or acts dangerous to human life, intended to intimidate or coerce civilians and influence the Ukrainian government and other governments seeking to contain Russian aggression.

110. A June 29, 2014 article in *Al-Jazeera America* titled, "The Donbass Battalion prepares to save Ukraine from separatists," reported that the DPR's "tactics have included hostage taking, storming and barricading buildings, and using civilians, such as international observers from the Organization for Security and Cooperation in Europe, as human shields." The June 29, 2014 article includes references to the DPR possessing the types of equipment, including Kalashnikov rifles, which the DPR solicited funds to purchase with Defendants' material support.

111. At all relevant times, this information was available to Defendants and the public at large, including the fact that money raised with Defendants' knowing material support was being utilized to purchase tactical and lethal equipment that the DPR used to commit violent acts, such as using civilians as "human shields."

112. A July 10, 2014 article in *The New York Times* titled, "Shadowy Rebel Wields Iron Fist in Ukraine Fight," profiled the DPR leader Igor Strelkov, explaining that he "consolidated control" over the DPR "by imposing a system of dark and ruthless justice." At all relevant times, this information was available to Defendants and the public at large.

B. Prior to the DPR's Terrorist Attack on MH17, the DPR's Terrorist Activities Were Widely Known and Extensively Reported on by Governments and Intergovernmental Organizations

113. The human rights abuses and terrorist acts perpetrated by the DPR were also widely reported on by governmental entities and intergovernmental organizations. At all relevant times, this information was available to Defendants and the public at large.

114. On March 21, 2014, the Organization for Security and Co-operation in Europe ("OSCE") deployed a Special Monitoring Mission to Ukraine following a request from Ukraine and a consensus decision by all 57 participating OSCE countries. The OSCE is the largest regional security organization in the world and is comprised of 57 participating countries from Europe, Central Asia, and North America, including the United States.

115. The reports of the OSCE monitors in Ukraine were and are widely disseminated and publicly available on its website at www.osce.org, including daily reports on the situation and condition in most major Ukrainian cities in three languages (English, Ukrainian, and Russian). At all relevant times, this information was available to Defendants and the public at large and regularly reported in international media. The OSCE reports include, among other things, detailed reports of the terrorist activities carried out by the DPR and its affiliates.

116. In March 2014, the Office of the United Nations High Commissioner for Human Rights deployed a Human Rights Monitoring Mission (the "United Nations" or "UN") to evaluate and report on the human rights situation in Ukraine and to provide support to the Ukrainian Government in the promotion and protection of human rights.

117. As part of its work, the UN prepared (and continues to prepare) monthly reports describing the human rights situation in Ukraine. These reports were and are widely disseminated and publicly available on the United Nations in Ukraine website at www.un.org.ua and the website of the Office of the United Nations High Commissioner for Human Rights at www.ohchr.org in English, Ukrainian, and Russian.

118. Eight human rights monitoring reports were released by the UN in 2014, beginning in April 2014. At all relevant times, this information was available to Defendants and the general public. They also featured prominently in open meetings of the United Nations Security Council and garnered regular and extensive media attention across the globe.

119. The UN reported that the DPR and its affiliates operated with impunity, terrorizing the civilian population in areas under their control, pursuing killings, abductions, torture, ill-treatment, and other serious human rights abuses, including the destruction of housing and seizure of property.

120. In a report issued on May 15, 2014, the UN detailed specific instances of terrorist activity in the Donbass, including an April 28, 2014 attack by the DPR on participants of a peaceful rally, which led to "dozens wounded, and five participants of the rally (reportedly students) [being] abducted." At all relevant times, this information was available to Defendants and the public at large.

121. In a report issued on June 15, 2014, the UN stated that, in the spring of 2014, the DPR and its affiliates had committed "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." At all relevant times, this information was available to Defendants and the public at large.

122. In a July 4, 2014 press briefing, the UN High Commissioner for Human Rights, Navi Pillay, noted a "disturb[ing] . . . message on the website of one leader of the self-proclaimed 'Donetsk People's Republic', which state[d] that underage children and women are legitimate targets and that the goal is to 'immerse them in horror.'" (Government of Ukraine's Brief ¶ 48.) At all relevant times, this information was available to Defendants and the public at large.

123. In a report issued on July 15, 2014, two days before the attack on MH17, the UN stated that "[e]gregious human rights abuses have been committed in the Donetsk and Luhansk regions," controlled by the DPR and the LPR, including "hundreds of abductions with many victims tortured. Increasing numbers of civilians have been killed." At all relevant times, this information was available to Defendants and the public at large.

124. According to the Ukraine 2014 Human Rights Report issued by the U.S. Department of State, the DPR and its affiliates had "launched violent attacks to establish their authority against the Ukrainian government," and "engaged in unlawful killings, abductions, physical abuse, torture, and unlawful detention" aimed at the civilian population in the Donbass. At all relevant times, this information was available to Defendants and the public at large.

125. Additionally, the nongovernmental organization Human Rights Watch issued periodic reports in 2014 of attacks on civilians committed in the Donbass region by the DPR and its affiliates. These reports were widely disseminated and available to Defendants and the general public.

126. A May 23, 2014 news article on the Human Rights Watch website detailed a series of terrorist attacks perpetrated by the DPR and its affiliates to intimidate and coerce the civilian population. The article described one instance on May 8, 2014 where DPR forces "broke into the home of a pro-Ukraine activist and terrorized and beat him and his father." The article

included references to the DPR possessing the types of equipment the DPR had solicited funds to purchase with Defendants' material support, including "sawed-off Kalashnikovs" used by the terrorists to shoot up the home of their victims. At all relevant times, this information was available to Defendants and the public at large.

127. In April 2014, the European Union sanctioned several DPR leaders, including Igor Strelkov. The European Union's sanctions were widely reported on in numerous prominent media outlets, including the *Washington Post* and *The Guardian*. In July 2014, the European Union ("EU") sanctioned several additional DPR leaders, including Pavel Gubarev and Ekaterina Gubareva.

128. In May 2014, the Ukrainian General Prosecutor Office formally and publicly classified the DPR and its affiliate, the LPR, as "terrorist organizations." First Deputy Prosecutor General in Ukraine Mykola Holomsha stated: "Facts of the persecution of the civilians in eastern Ukraine have been registered. . . . The purpose of the creation of these organizations is to deliberately propagate violence, seize hostages, carry out subversive activity, assassination and intimidation of citizens." This information was available to Defendants and the general public and was reported on by the media at the time.

C. Prior to the DPR's Terrorist Attack on MH17, the United States Government Expressly Sought to Stop the Flow of Material Support to the DPR and Its Affiliated Terrorist Groups

129. Beginning on March 6, 2014, President Barack Obama issued a series of Executive Orders in response to the violence in Ukraine. The March 6, 2014 order authorized the United States Treasury Department to impose sanctions on individuals or entities "responsible for or complicit in . . . actions or policies that undermine democratic processes or institutions in Ukraine; [and] actions or policies that threaten the peace, security, stability, sovereignty, or

MH17, Defendants' conduct and actions were a substantial factor in the DPR's ability to launch a surface-to-air missile and to control territory, including the territory necessary to set up, operate, and ultimately launch the missile system that brought down MH17; the DPR controlled this territory utilizing weapons, tactical equipment, and ammunition procured with the material support of Defendants.

397. Because they provided the DPR with access to critical funds in the days and weeks leading up to the attack on MH17, it was reasonably foreseeable that Defendants' provision of material support to the DPR would make possible the DPR's well-documented ongoing terrorist attacks, including ultimately the attack on MH17.

398. The downing of the airplane carrying Quinn and 297 other innocent victims was therefore enabled, facilitated, and proximately caused by Defendants' conduct and actions described herein.

399. Plaintiffs' injuries and Quinn's death are thus the direct and proximate result of Defendants' conduct and actions.

CLAIM I – PROVISION OF MATERIAL SUPPORT TO TERRORISTS

400. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 399 as if fully set forth herein.

401. The actions of Defendants in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, constituted "acts of international terrorism" as defined in 18 U.S.C. § 2331.

402. As required by 18 U.S.C. § 2331, the actions of Defendants in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, constituted a violation of the criminal laws of the United

States, including, without limitation, the criminal provisions of 18 U.S.C. § 2339A, which prohibits the provision of material support to terrorists.

403. As required by 18 U.S.C. § 2331, Defendants' actions in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, were dangerous to human life, because the funds were raised explicitly to purchase lethal and/or tactical equipment for the DPR, which was and remains a violent terrorist organization that has murdered and tortured thousands of civilians since its establishment and openly proclaims its intent to continue such acts of terror.

404. As required by 18 U.S.C. § 2331, the violent acts committed by the DPR through Defendants' material support, specifically the missile attack that brought down the MH17 airplane, transcended national boundaries in the means by which they were accomplished and the persons they intended to intimidate or coerce. The missile was launched from DPR-held territory in Ukraine and destroyed a Malaysian airplane that departed the Netherlands en route to Malaysia carrying 298 victims of 11 different nationalities. Defendants' actions in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, also transcended national boundaries in the means by which they were accomplished and the locales in which Defendants operated.

405. Defendants knowingly and intentionally provided financial services to the DPR, including its fundraisers, and its affiliates and/or executed the money transfers that funded the DPR, when they knew or were deliberately indifferent to the fact that the DPR, including its fundraisers, and its affiliates were violent organizations dedicated to using terrorism to intimidate and influence the conduct of the Ukrainian government and other governments seeking to contain Russian aggression, and to intimidate and coerce the civilian population.

406. As a direct and proximate result of Defendants' provision of financial services to the DPR, including its fundraisers, and its affiliates and/or execution of the money transfers that funded the DPR, Plaintiffs suffered the harms described herein.

407. Defendants reasonably could have foreseen that persons, such as Plaintiffs and Quinn, would be injured by Defendants' conduct and actions described herein.

408. Due to the facts described above, including but not limited to the anti-American sentiment associated with the DPR, and the U.S. Department of State warnings relating to the risk to Americans of traveling in the Donbass region, Defendants reasonably could have foreseen that their provision of financial services to the DPR would result in injury to one or more United States citizens.

409. Defendants are therefore liable for all of Plaintiffs' damages in such sums as may hereinafter be determined, to be trebled pursuant to 18 U.S.C. § 2333(a).

CLAIM II – FINANCING OF TERRORISM

410. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 399 as if fully set forth herein.

411. The actions of Defendants in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, constituted "acts of international terrorism" as defined in 18 U.S.C. § 2331.

412. As required by 18 U.S.C. § 2331, the actions of Defendants in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, constituted a violation of the criminal laws of the United States, including, without limitation, the criminal provisions of 18 U.S.C. § 2339C, which prohibits the financing of terrorism.

413. As required by 18 U.S.C. § 2331, Defendants' actions in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, were dangerous to human life, because the funds were raised explicitly to purchase lethal and/or tactical equipment for the DPR, which was and remains a violent terrorist organization that has murdered and tortured thousands of civilians since its establishment and openly proclaims its intent to continue such acts of terror.

414. As required by 18 U.S.C. § 2331, the violent acts committed by the DPR through Defendants' material support, specifically the missile attack that brought down the MH17 airplane, transcended national boundaries in the means by which they were accomplished and the persons they intended to intimidate or coerce. The missile was launched from DPR-held territory in Ukraine and destroyed a Malaysian airplane that departed the Netherlands en route to Malaysia carrying 298 victims of 11 different nationalities. Defendants' actions in providing financial services to the DPR, including its fundraisers, and its affiliates and/or executing the money transfers that funded the DPR, also transcended national boundaries in the means by which they were accomplished and the locales in which Defendants operated.

415. Defendants knowingly and intentionally provided financial services to the DPR, including its fundraisers, and its affiliates and/or executed the money transfers that funded the DPR, when they knew or were deliberately indifferent to the fact that the DPR, including its fundraisers, and its affiliates were violent organizations dedicated to using terrorism to intimidate and influence the conduct of the Ukrainian government and other governments seeking to contain Russian aggression, and to intimidate and coerce the civilian population.

416. As a direct and proximate result of Defendants' provision of financial services to the DPR, including its fundraisers, and its affiliates and/or execution of the money transfers that funded the DPR, Plaintiffs suffered the harms described herein.

417. Defendants reasonably could have foreseen that persons, such as Plaintiffs and Quinn, would be injured by Defendants' conduct and actions described herein.

418. Due to the facts described above, including but not limited to the anti-American sentiment associated with the DPR, and the U.S. Department of State warnings relating to the risk to Americans of traveling in the Donbass region, Defendants reasonably could have foreseen that their provision of financial services to the DPR would result in injury to one or more United States citizens, such as Quinn.

419. Defendants are therefore liable for all of Plaintiffs' damages in such sums as may hereinafter be determined, to be trebled pursuant to 18 U.S.C. § 2333(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demands judgment as follows:

a. awarding Plaintiffs compensatory damages in an amount to be determined at trial for all injuries suffered as a result of Defendants' wrongdoing;

b. awarding Plaintiffs treble damages pursuant to 18 U.S.C. § 2333;

c. awarding Plaintiffs the costs of suit as incurred in this action and attorneys' fees pursuant to 18 U.S.C. § 2333;

d. awarding Plaintiffs any equitable relief to which they may be entitled;

e. awarding Plaintiffs pre-judgment and post-judgment interest at the maximum rate allowable by law; and

f. all other relief as may be appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues triable to a jury.

Dated: October 5, 2020

Respectfully submitted,

JENNER & BLOCK LLP

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Attorneys for Plaintiffs Thomas Schansman, individually, as the surviving parent of Quinn Lucas Schansman, and as legal guardian on behalf of X.S., a minor, Catharina Teunissen, individually, as surviving parent of Quinn Lucas Schansman, and as personal representative of the Estate of Quinn Lucas Schansman, and Nerissa Schansman, individually, as the surviving sibling of Quinn Lucas Schansman

Annex 67

Schansman v. Sberbank of Russia PJSC, Civ. No. 19-CV-2985 (ALC), 2021 WL 4482172 (S.D.N.Y. 30 September 2021)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

2021 WL 4482172
Only the Westlaw citation is currently available.
United States District Court, S.D. New York.

Thomas SCHANSMAN, individually, as surviving Parent of Quinn Lucas Schansman, and as legal guardian on behalf of X.S., a minor, and Catharina Teunissen, individually, and as surviving Parent and personal representative of the Estate of Quinn Lucas Schansman, and Nerissa Schansman, individually, and as surviving Sibling of Quinn Lucas Schansman, Plaintiffs,
v.
SBERBANK OF RUSSIA PJSC, the Western Union Company, Western Union Financial Services, Inc., MoneyGram International, Inc., MoneyGram Payment Systems, Inc., and VTB Bank PJSC, Defendants

19 CV 2985 (ALC)
|
Signed 09/30/2021

Synopsis
Background: Family of airline passenger, who was killed when terrorist group based on ideology of Russian supremacy filed missile at civilian passenger plane, brought action on behalf of passenger under Antiterrorism Act (ATA) against Russian banks and two money transfer companies based in United States, alleging that defendants provided material support and financing to group. Defendants moved to dismiss complaint for lack of personal jurisdiction.

Holdings: The District Court, Andrew L. Carter, J., held that:

[1] family established prima facie case that District Court had personal jurisdiction over banks under New York's long-arm statute;

[2] family adequately pled that defendants committed acts of "international terrorism" under ATA;

[3] family adequately pled requisite intent or knowledge required to state claim under ATA;

[4] family sufficiently plead that group's alleged act of international terrorism proximately caused their injury; and

[5] Act of War exception did not preclude family's claims under ATA.

Motions denied.

Procedural Posture(s): Motion to Dismiss for Lack of Personal Jurisdiction; Motion to Dismiss for Failure to State a Claim.

West Headnotes (25)

[1] **Federal Courts** Weight and sufficiency
When deciding motion to dismiss for lack of personal jurisdiction, courts may rely on pleadings and affidavits, in which case plaintiff need only make prima facie showing that court possesses personal jurisdiction over defendant. Fed. R. Civ. P. 12(b)(2).

[2] **Federal Courts** Weight and sufficiency
When deciding on motion to dismiss for lack of personal jurisdiction whether plaintiffs have made prima facie showing that court possesses personal jurisdiction over defendant, court must construe the pleadings and affidavits in the light most favorable to plaintiffs, resolving all doubts in their favor. Fed. R. Civ. P. 12(b)(2).

[3] **Federal Courts** Weight and sufficiency
A plaintiff's prima facie showing, on motion to dismiss for lack of personal jurisdiction, that court possesses personal jurisdiction over defendant must include an averment of facts that, if credited by the ultimate trier of fact, would suffice to establish jurisdiction over the defendant. Fed. R. Civ. P. 12(b)(2).

[4] **Federal Courts** Evidence; Affidavits
On motion to dismiss for lack of personal jurisdiction, when parties do not submit an

affidavit or other evidence on which the court could rely, the court must rely on the allegations in the complaint to determine if personal jurisdiction exists. Fed. R. Civ. P. 12(b)(2).

[5] **Federal Civil Procedure** Matters considered in general

In addition to the factual allegations in the complaint, the court, in ruling on motion to dismiss for failure to state a claim, also may consider the documents attached to the complaint as exhibits, and any documents incorporated in the complaint by reference. Fed. R. Civ. P. 12(b)(6).

[6] **Constitutional Law** Non-residents in general

Federal Courts Actions by or Against Nonresidents; "Long-Arm" Jurisdiction

Federal Courts Personal jurisdiction

In determining personal jurisdiction, district court must first look to law of forum state to determine whether personal jurisdiction will lie and, if jurisdiction lies, court considers whether its exercise of personal jurisdiction over foreign defendant comports with due process protections established under United States Constitution. U.S. Const. Amend. 5.

[7] **Courts** Business contacts and activities; transacting or doing business

Single transaction may be sufficient to satisfy "transaction of business" requirement of New York's long-arm statute, provided the relevant claims arise from that transaction. N.Y. CPLR § 302(a)(1).

[8] **Constitutional Law** Non-residents in general

To exercise specific jurisdiction over a defendant consistent with the defendant's due process rights, the defendant's suit-related conduct must create a substantial connection with the forum state. U.S. Const. Amend. 5.

[9] **Courts** Related contacts and activities; specific jurisdiction

There is no requirement under New York's long-arm statute that a plaintiff's claim must arise exclusively from New York conduct. N.Y. CPLR § 302(a)(1).

[10] **Federal Courts** Terrorism

To establish personal jurisdiction, Antiterrorism Act (ATA) claims do not necessarily have to correspond one-to-one with particular money transfers, but instead may rest upon the millions of dollars defendant allegedly transferred to terrorist front organizations in close temporal proximity to the attacks in which plaintiffs were injured. 18 U.S.C.A. § 2333(a); N.Y. CPLR § 302(a)(1).

[11] **Federal Courts** Terrorism

When money transfers made through New York are part of allegedly unlawful conduct under Antiterrorism Act (ATA), court may exercise personal jurisdiction under New York's long-arm statute with respect to claims made in connection with all relevant attacks. 18 U.S.C.A. § 2333(a); N.Y. CPLR § 302(a)(1).

[12] **Federal Courts** Terrorism

In context of extending personal jurisdiction under New York's long-arm statute in action under Antiterrorism Act (ATA), a foreign bank's repeated use of a correspondent account in New York on behalf of a client, in effect, a course of dealing, shows purposeful availment of New York's dependable and transparent banking system, the dollar as a stable and fungible currency, and the predictable jurisdictional and commercial law of New York and the United States. 18 U.S.C.A. § 2333(a); N.Y. CPLR § 302(a)(1).

[13] **Federal Courts** Terrorism

Family of passenger who was killed when terrorist group based on ideology of Russian supremacy filed missile at civilian passenger plane established prima facie case that district court had personal jurisdiction, under New York's long-arm statute, over Russian banks which allegedly provided material support and financing to group, in family's action under Antiterrorism Act (ATA); banks chose to operate correspondent accounts in New York and were alleged to have made transfers using New York's banking system, families alleged that prior to attack, group provided instructions on how to send transfers in United States dollars to banks' correspondent accounts in New York, and fundraisers advertised correspondent accounts in New York, as well as account numbers, to process transactions. 18 U.S.C.A. § 2333(a); N.Y. CPLR § 302(a)(1).

[14] **Federal Courts** Terrorism

Plaintiffs asserting claims under Antiterrorism Act (ATA) need not allege dozens of currency transfers over an extended period to establish a course of dealing and purposeful use of New York correspondent accounts, so as to establish personal jurisdiction over foreign defendant under New York's long-arm statute. 18 U.S.C.A. § 2333(a); N.Y. CPLR § 302(a)(1).

[15] **War and National Emergency** Private Remedies

Even if one does not know organization engages in terrorism, liability under Antiterrorism Act (ATA) is appropriate when one is deliberately indifferent to whether it does or not, meaning that one knows there is a substantial probability that the organization engages in terrorism but one does not care. 18 U.S.C.A. § 2333(a).

[16] **War and National Emergency** Private Remedies

Giving money to terrorist organization, like giving a loaded gun to a child, which also is not a violent act, is an act dangerous to human life within meaning of "international terrorism" under Antiterrorism Act (ATA). 18 U.S.C.A. § 2333(a).

[17] **War and National Emergency** Private Remedies

Family of airline passenger, who was killed when terrorist group based on ideology of Russian supremacy filed missile at civilian passenger plane, adequately pled that Russian banks and money transfer companies based in United States committed acts of "international terrorism," as required for liability under Antiterrorism Act (ATA); family alleged that defendants provided financial services to fundraisers and individuals who supported group, that those fundraisers and individuals then provided funds to group before and after attack, that funds were confirmed by leader of group, and that additional funds were raised by another individual who publicly boasted about raising millions for group. 18 U.S.C.A. § 2331(1).

[18] **War and National Emergency** Private Remedies

Family of airline passenger, who was killed when terrorist group based on ideology of Russian supremacy filed missile at civilian passenger plane, adequately pled requisite intent or knowledge required to state claim under Antiterrorism Act (ATA) against Russian banks and money transfer companies based in United States; family alleged that defendants were deliberately indifferent to whether they were providing funds to group due to group's public crowdsourcing campaign, international recognition of their activities, funding of group's leaders who identified their relation to group, group's publicizing of its terrorist activities across several websites, and investigation by Ukrainian authorities unto banks. 18 U.S.C.A. §§ 2339A, 2339C.

[19] **War and National Emergency** Private Remedies

Provider of material support resources to terrorist group need not have had the specific intent to aid or encourage the particular attacks that injured plaintiffs in order to be held liable under Antiterrorism Act (ATA). 18 U.S.C.A. § 2339A(a).

[20] **War and National Emergency** Private Remedies

Providing financial services to a terrorist organization falls within the scope of Antiterrorism Act (ATA) provision prohibiting the financing of terrorism, to the extent that the financial institution receives and transmits the organization's funds. 18 U.S.C.A. § 2339C.

[21] **War and National Emergency** Private Remedies

Regarding state of mind, like Antiterrorism Act (ATA) provision allowing for civil remedies for providing material support to terrorism, provision pertaining to financing of terrorism does not require showing of specific intent that the defendant acted to further the organization's terrorist activities or that it intended to aid or encourage the particular attack giving rise to a plaintiff's injuries; rather, mere knowledge that funds provided and collected would be used to carry out predicate act is enough. 18 U.S.C.A. §§ 2339A, 2339C.

[22] **Torts** Proximate cause

Foreseeability is cornerstone of proximate cause, and in tort law, defendant will be held liable only for those injuries that might have reasonably been anticipated as natural consequence of defendant's actions.

[23] **War and National Emergency** Private Remedies

Allegations of family of passenger who was killed when terrorist group based on ideology of Russian supremacy filed missile at civilian passenger plane, that Russian banks and money transfer companies based in United States provided financial services to group through their charities and other intermediaries, and that group used those services to buy lethal equipment to carry out their terroristic activities, sufficiently pled that group's alleged act of international terrorism proximately caused their injury, as required to state claim against banks and companies under Antiterrorism Act (ATA). 18 U.S.C.A. § 2333(a).

[24] **War and National Emergency** Private Remedies

Lack of direct transfers from Russian banks and money transfer companies based in United States to terrorist group based on ideology of Russian supremacy for specific attack on civilian passenger plane was not dispositive of proximate cause, as required to hold banks and companies liable under Antiterrorism Act (ATA), in action brought by family of passenger who was killed in attack. 18 U.S.C.A. § 2333(a).

[25] **War and National Emergency** Private Remedies

Group known as the Donetsk People's Republic (DPR) was terrorist group operating in eastern Ukraine that acquired territory through force and intimidation, rather than nation with armed forces, and thus Act of War exception did not preclude claims brought under the Antiterrorism Act (ATA) by family of passenger who was killed when DPR filed missile at civilian passenger plane against Russian banks and money transfer companies in United States which allegedly provided material and financial support to DPR. 18 U.S.C.A. §§ 2331(4)(B), 2331(4)(C), 2333(a).

Attorneys and Law Firms

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MEMORANDUM AND ORDER

ANDREW L. CARTER, JR., District Judge:

***1** Plaintiffs bring this action under the Antiterrorism Act, 18 U.S.C. § 2331 *et seq.* (the "ATA") on behalf of Quinn Lucas Schansman. Pending before the Court is Defendants' motions to dismiss Plaintiffs' Second Amended Complaint. (ECF Nos. 160, 165, 168.) For the following reasons, Defendants' motions to dismiss are denied.

BACKGROUND

According to the second amended complaint, which the Court assumes to be true for purposes of Defendants' Rule 12(b)(6) motions, this action arises from the downing of a Malaysia Airlines Flight 17 (MH17) on July 17, 2014 by a terrorist group known as the Donetsk People's Republic ("DPR"). [1] 298 passengers were killed when the DPR fired a missile at the civilian passenger plane traveling from Amsterdam to Kuala Lumpur, including Quinn Lucas Schansman, whose family, the Plaintiffs in this action, bring this lawsuit on his behalf. Second Am. Compl. ¶¶ 1-2, 73-75. The Defendants in this action are Russian State-owned Banks, Sberbank and VTB Bank. Additionally, The Western Union Company and MoneyGram International, Inc. are United States based company Defendants. *Id.* at ¶¶ 33, 40, 63-64.

The DPR is a terrorist group based on an ideology of Russian supremacy by creating a proto-state, Novorossiya, through the control of territory in Ukraine. Second Am. Compl. ¶ 88. Additionally, the DPR have carried out violent acts intended to affect government policy and intimidate civilians around the world. *Id.* at ¶¶ 98, 102.

The basic tenet of Plaintiffs' claims is that Defendants provided material support and financing to the DPR. Second Am. Compl. ¶ 79. In providing this material support, Plaintiffs allege that Defendants were aware of the DPR's terrorist activities, as the DPR has openly, publicly, and repeatedly carried out terrorist attacks on civilians, and these attacks were widely reported and discussed by nearly every government across the world, media, and human rights organizations. Second Am. Compl. ¶ 104. Plaintiffs' cite articles from the New York Times, the Washington Post, The Independent, The Telegraph, and the Al-Jazeera America detailing the DPR, including attacks, their tactics, and profiling the DPR's leadership. *Id.* at ¶¶ 104-106, 108, 110, 112.

In the months leading to the attack on MH17, Defendants had extensive operations in Ukraine, maintaining locations and providing global money transfer services. Second Am. Compl. ¶¶ 139-143. The DPR used Defendants' services to raise money and advertised ways to donate money to accounts or bank cards associated with Defendants Sberbank and VTB Bank. *Id.* at ¶¶ 143-150. Additionally, the DPR detailed ways to donate using the money transfer services of MoneyGram and Western Union. *Id.* The DPR utilized a small group of fundraisers, and the DPR detailed how the receipt of funds were confirmed by their leader, Igor Strelkov. *Id.* at ¶¶ 154-155. As to the use of the funds, the DPR relied on Defendants' services to access funds that were essential for its procurement of weapons and ammunition and to acquire control of the territory from which the DPR launched the missile that brought down MH17. Id. at ¶ 159.

***2** Plaintiffs further allege that Defendants were aware that they were providing material support and financing to the DPR. Plaintiffs cite news outlets, Forbes, the New York Times, Reuters and the Kyiv Post as reporting the DPR's funding scheme. Second Am. Compl. ¶¶ 162-167. For

instance, Forbes discussed Defendant Sberbank facilitating payments to Ukrainian soldiers to assist Russian Separatists in East Ukraine; a Reuters article titled "Ukraine says investigating Russia's Sberbank for financing terrorists;" and an April article by Kyiv post detailed the DPR's call for funds as well as references to Sberbank and VTB Bank's knowledge of the investigation initiated by Ukrainian authorities prior to the downing of MH17. Id. at ¶¶ 167-169.

DPR fundraisers advertised and provided an explanation on how to wire U.S. dollars from abroad into Russian bank accounts like Sberbank and VTB Bank. Second Am. Compl. ¶ 177. These fundraisers also listed account holder and email address information for money transfers through Western Union and MoneyGram. *Id.* at ¶ 178. As to the funds received, the DPR published online detailed ledgers reflecting the funds that the DPR received using Defendants' services, and the DPR also detailed how the funds were used to purchase equipment and weaponry "necessary for the DPR's terrorist activities." *Id.* at ¶¶ 179-180.

Plaintiffs detail several fundraisers, including Save Donbass, the Center for New Russia, Veche, Rospisatel, World Crisis, Icorpus, Sevastopol, Essence of Time, and People's Militia of New Russia, that were used to solicit funds to provide lethal support directly to the DPR, specifically Igor Strelkov and Paul Gubarev (the self-declared people's governor of the DPR). Additionally, the fundraisers provided reports of transfers and withdrawals from its accounts with Defendants Sberbank and VTB Bank and money transferred through Defendant Western Union. Additionally, many of the fundraisers advertised that transfers could be made through Defendants Western Union and Moneygram. Second Am. Compl. ¶¶ 105, 194-209, 210-292.

Additionally, Plaintiffs detail Defendants' support through Alexander Zhuchkovsky, who publicly boasted about raising millions of rubles for the DPR and then provided lethal weapons to Igor Strelkov. Second Am. Compl. ¶¶ 293, 296-305. Additionally, Zhuchkovsky indicated that transfers could be made to a specific Sberbank bank card or via Western Union, and Zhuchkovsky solicited funds through transfers utilizing VTB Bank, Sberbank, Moneygram, and Western Union. *Id.* at ¶¶ 317, 318. Zhuchkovsky's website indicates that he has raised approximately 89 Rubles, or $2.5 million U.S. dollars for the DPR during the first six months of 2014, prior to the attach on MH17. *Id.* at ¶¶ 321-326.

Through the material support and financing to the DPR using Defendants' services Plaintiffs allege that Defendants have knowingly provided this material support and financing to the DPR, and Defendants' knowledge or deliberate indifference in providing this support constituted acts of international terrorism. *Id.* at ¶¶ 342-391.

PROCEDURAL HISTORY

Plaintiffs commenced this action on April 4, 2019. (ECF No. 1.) Plaintiffs filed a First Amended Complaint on October 8, 2019, and a Second Amended Complaint on October 5, 2020. (ECF Nos. 104, 156.) Defendants moved to dismiss the second amended complaint on November 2, 2020. (ECF Nos. 160, 165, 168.) Plaintiffs opposed the motion on November 30, 2020, and Defendants replied on December 14, 2020. (ECF Nos. 172, 173, 174, 175, 176.) The Court considers the motions fully briefed.

DISCUSSION

I. Standard of Review

[1] **[2]** When deciding a motion to dismiss for lack of personal jurisdiction, courts may rely on pleadings and affidavits, in which case "the plaintiff need only make a prima facie showing that the court possesses personal jurisdiction over the defendant." *DiStefano v. Carozzi North America, Inc.*, 286 F.3d 81, 84 (2d Cir. 2001) (internal quotation marks omitted). When deciding whether Plaintiffs have made such a showing, the Court must "construe the pleadings and affidavits in the light most favorable to [Plaintiffs], resolving all doubts in [their] favor." *Id.*

***3** **[3]** **[4]** "This prima facie showing must include an averment of facts that, if credited by the ultimate trier of fact, would suffice to establish jurisdiction over the defendant." *Licci ex rel. Licci v. Lebanese Canadian Bank, SAL*, 673 F.3d 50, 59 (2d Cir. 2012) ("Licci I") (internal quotation marks and alterations omitted). When parties do not submit "an affidavit or other evidence on which the court could rely ... the court must rely on the allegations in the complaint to determine if personal jurisdiction exists." *MacFarlane v. Brock*, No. 3:00 CV 97, 2000 WL 1827353, at *2 (D. Conn. Nov. 30, 2000). Here, the parties have not submitted affidavits on the issue

of personal jurisdiction, but they have submitted declarations and exhibits.

To survive a motion to dismiss pursuant to Rule 12(b)(6), "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.' " *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). A claim is facially plausible "when the plaintiff pleads factual content that allows the Court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556, 127 S.Ct. 1955). The plaintiff must allege sufficient facts to show "more than a sheer possibility that a defendant has acted unlawfully," and accordingly, where the plaintiff alleges facts that are " 'merely consistent with' a defendant's liability, it 'stops short of the line between possibility and plausibility of entitlement to relief.' " *Id.* (quoting *Twombly*, 550 U.S. at 557, 127 S.Ct. 1955).

[5] In considering a motion to dismiss, the court accepts as true all factual allegations in the complaint and draws all reasonable inferences in the plaintiff's favor. *See Goldstein v. Pataki*, 516 F.3d 50, 56 (2d Cir. 2008). However, the court need not credit "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements." *Iqbal*, 556 U.S. at 678, 129 S.Ct. 1937 (citing *Twombly*, 550 U.S. at 555, 127 S.Ct. 1955); *see also id.* at 681, 129 S.Ct. 1937. Instead, the complaint must provide factual allegations sufficient "to give the defendant fair notice of what the claim is and the grounds upon which it rests." *Port Dock & Stone Corp. v. Oldcastle Northeast, Inc.*, 507 F.3d 117, 121 (2d Cir. 2007) (citing *Twombly*, 550 U.S. at 555, 127 S.Ct. 1955). In addition to the factual allegations in the complaint, the court also may consider "the documents attached to the complaint as exhibits, and any documents incorporated in the complaint by reference." *Peter F. Gaito Architecture, LLC v. Simone Dev. Corp.*, 602 F.3d 57, 64 (2d Cir. 2010) (citation and internal quotation marks omitted).

i. Personal Jurisdiction

VTB Bank and Sberbank argue that the Second Amended Complaint fails to establish personal jurisdiction as the conduct took place in Ukraine, and Plaintiffs have failed to establish that the two banks transacted business within New York. *See* VTB Bank's Mem. of Law at 18; Sberbank's Mem. of Law at 7-15. The Court disagrees.

[6] In determining personal jurisdiction, the Court must first "look to the law of the forum state to determine whether personal jurisdiction will lie" and, if "jurisdiction lies, [courts] consider whether the district court's exercise of personal jurisdiction over a foreign defendant comports with due process protections established under the United States Constitution." *Licci ex rel. Licci v. Lebanese Canadian Bank, SAL,* 732 F.3d 161, 168 (2d Cir. 2013) (Licci II). New York's long-arm statute provides that a court "may exercise personal jurisdiction over any non-domiciliary ... who in person or through an agent ... transacts any business within the state or contracts anywhere to supply goods or services in the state." N.Y. C.P.L.R. 302(a)(1).

***4** **[7]** **[8]** **[9]** A single transaction may be sufficient to satisfy this requirement, provided the relevant claims arise from that transaction. *Bank Brussels Lambert v. Fiddler Gonzalez & Rodriguez*, 171 F.3d 779, 787 (2d Cir. 1999). To exercise specific jurisdiction over a defendant consistent with the defendant's due process rights, "the defendant's suit-related conduct must create a substantial connection with the forum State." *Waldman v. Palestine Liberation Organization*, 835 F.3d 317, 335 (2d Cir. 2016). However, "[t]here is no requirement under [New York's long-arm statute] that a plaintiff's claim must arise exclusively from New York conduct." *Strauss v. Crédit Lyonnais, S.A.*, 175 F.Supp.3d 3, 25 (E.D.N.Y. 2016) (Strauss II).

The Second Circuit has held that "the selection and repeated use of New York's banking system, as an instrument for accomplishing the alleged wrongs" under the ATA is sufficient for a bank to be subject to the specific jurisdiction of a district court in New York. *Licci II*, 732 F.3d at 171. In *Licci II,* specific jurisdiction was proper when a bank "deliberately chose to process ... wire transfers ... in New York" when "[i]n light of the widespread acceptance and availability of U.S. currency, [the bank] could have ... processed U.S.-dollar-denominated wire transfers ... through correspondent accounts anywhere in the world." *Id.*

[10] Further, to establish personal jurisdiction, ATA claims "do not necessarily [have to] correspond one-to-one with particular transfers, but instead [may] rest upon the millions of dollars [d]efendant allegedly transferred to [terrorist] front organizations in close temporal proximity to the ... attacks in which Plaintiffs were injured." *Strauss* II, 175 F.Supp.3d

at 24; *see also Weiss v. National Westminster Bank PLC*, 176 F. Supp. 3d 264, 280 (E.D.N.Y. 2016) (finding personal jurisdiction over a bank proper when transfers routed through a bank "overlapped with the attacks ... that caused Plaintiffs' injuries, but also occurred at a time when Defendant allegedly knew that funds it transferred ... were being used to support a terrorist organization").

[11] **[12]** When transfers made through New York are "part of that allegedly unlawful conduct, the Court may exercise jurisdiction with respect to claims made in connection with all [relevant] attacks." *Strauss* II at 24,. "A foreign bank's repeated use of a correspondent account in New York on behalf of a client – in effect, a course of dealing – shows purposeful availment of New York's dependable and transparent banking system, the dollar as a stable and fungible currency, and the predictable jurisdictional and commercial law of New York and the United States." *Id.* at 19 (internal quotation marks and alterations omitted).

[13] Here, the Court relies on the allegations in the complaint to determine whether it has personal jurisdiction over the Defendant banks. The allegations in the Second Amended Complaint are sufficient for Plaintiffs to make a prima facie case that the Court has personal jurisdiction over VTB Bank and Sberbank as the banks chose to operate correspondent accounts in New York and are alleged to have made transfers using New York's banking system when the Defendant banks could have processed transfers anywhere in the world. According to the Second Amended Complaint, VTB Bank and Sberbank routed U.S. Dollar dominated transactions to or on behalf of the DPR. Second Am. Complaint ¶¶ 27, 56, 177-332. Additionally, Plaintiffs allege that prior to the attack on MH17, the DPR provided instructions on how to send transfers in U.S. Dollars to Sberbank and VTB Bank's correspondent accounts in New York. *Id.* at ¶ 58. Likewise, fundraisers for the DPR advertised VTB Bank's and Sberbank's correspondent accounts in New York, as well their account numbers, to process U.S. Dollar transactions, and the New York Times reported that U.S. Dollars had passed from an unnamed international bank to the Veche fundraiser. *Id.* at ¶¶ 173, 178, 216, 220. The DPR's Sevastopol fundraiser explained that the only way to transfer U.S. Dollars was to use Sberbank's correspondent account in New York. *Id.* at ¶ 283.

***5** **[14]** Taking this conduct into consideration, the Court finds that Plaintiffs have made a prima facie showing that jurisdiction exists and that Defendants VTB Bank and Sberbank provided financial services to the DPR using New York's banking system. Defendants' arguments that Plaintiffs have not provided factual support that they knew they were supporting terrorist organizations and that the organizations that were provided funds are not listed as Foreign Terrorist Organizations are unavailing in light Plaintiffs' allegations that VTB Bank and Sberbank were aware of Ukrainian investigations as early as April 2014, three months before the attack, into their support of Ukrainian separatists associated with the DPR. *See* Second Am. Compl. ¶¶ 163-170. Additionally, Defendants' support of the DPR through fundraisers or other intermediaries does not foreclose a finding of personal jurisdiction over Defendants as Plaintiffs allege facts to support that Defendants knew they were supporting the DPR when they completed transfers for fundraisers supporting the DPR. *See generally Strauss II* at 29-31,. Moreover, Defendants' argument that the two identified transfers amounting to $300 are insufficient is equally unavailing in light of the second amended complaint. Plaintiffs have alleged that the DPR has raised millions of dollars through fundraising, some of which were transferred using VTB Bank and Sberbank's services. *See* SAC ¶ 171, 298. Construing this in the light most favorable to Plaintiffs, the inference is that some of those funds raised were transferred using VTB Bank and Sberbank's services. Plaintiffs need not allege "dozens of transfers over an extended period ... to establish a course of dealing and purposeful use of the New York correspondent accounts." *Averbach v. Cairo Amman Bank*, No. 19 CV 0004, 2020 WL 486860, at *6 (S.D.N.Y. Jan. 21, 2020), report and recommendation adopted sub nom. *Averbach for Est. of Averbach v. Cairo Amman Bank*, No. 19-CV 00004, 2020 WL 1130733 (S.D.N.Y. Mar. 9, 2020). At this juncture of the case, Plaintiffs are not required to make the showing that Defendants suggest. Plaintiffs need only plead facts that, if credited, would establish jurisdiction over Defendants. *Metro. Life Ins. Co. v. Robertson-Ceco Corp.*, 84 F.3d 560, 567 (2d Cir. 1996).

The Court may therefore exercise personal jurisdiction over VTB Bank and Sberbank for Plaintiffs' claims.

ii. Liability under 18 U.S.C. § 2333(a)

a. International Terrorism

Section 2333(a) of the ATA provides that "[a]ny national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue" for damages.

Section 2331(1) of the ATA defines "international terrorism" as activities that:

> (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
>
> (B) appear to be intended—
>
> (i) to intimidate or coerce a civilian population;
>
> (ii) to influence the policy of a government by intimidation or coercion; or
>
> (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and
>
> (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

The Second Circuit has "conclude[d] ... that providing routine financial services to members and associates of terrorist organizations is not so akin to providing a loaded gun to a child as to ... compel a finding that as a matter of law, the services" met the definition of "international terrorism" under the ATA. *Linde v. Arab Bank, PLC,* 882 F.3d 314, 327 (2d Cir. 2018) ("*Linde II*"). Whether financial services are "routine ... raises questions of fact for a jury to decide." *Id.*

[15] Judge Posner of the Seventh Circuit explained that when Defendants provide financial support to an organization like Hamas who "knew the aims and activities of the organization" would "by augmenting Hamas's resources ... enable Hamas to kill or wound, or try to kill, or conspire to kill more people in Israel." *Boim v. Holy Land Foundation for Relief and Development*, 549 F.3d 685, 694 (7th Cir. 2008) (Boim III). "And given such foreseeable consequences, such donations would appear to be intended to intimidate or coerce a civilian population or to affect the conduct of a government by assassination, as required by section 2331(1)" of the ATA. *Id.* (internal quotation marks and alterations omitted). Even if one does not know the organization engages in terrorism, liability is appropriate when one "is deliberately indifferent to whether it does or not, meaning that one knows there is a substantial probability that the organization engages in terrorism but one does not care." *Id.* at 693.

***6** **[16]** Thus, "[g]iving money to Hamas, like giving a loaded gun to a child (which also is not a violent act), is an 'act dangerous to human life' " under the ATA. *Id.* at 690. Courts have opined that providing financial services, like the money transfers alleged in the present case "increases Hamas' ability to carry out attacks in the same way, and Congress made no distinction between these different forms of material support in criminalizing them." *Linde v. Arab Bank, PLC*, 97 F.Supp.3d 287, 323 (E.D.N.Y. 2015) (vacated on other grounds) ("Linde I").

Defendants allege that their actions were not acts of international terrorism and the ATA's act of war exclusion bars Plaintiffs' claims. Additionally, Defendants allege that Plaintiffs have failed to meet the ATA's proximate causation requirement. Defendant Sberbank further alleges that Plaintiffs fail to plead facts showing the requisite knowledge or intent to commit predicate crimes of providing support for a terrorist act. *See generally* Defs' Mem. of Law, ECF Nos. 161, 162, 166, 171, 173, 174, 175, 176.

[17] Plaintiffs have adequately pleaded that Defendants' actions were acts of international terrorism. The Court considers whether Defendants' providing of financial support to fundraisers and individuals who in turn provided money to the DPR that assisted in the attack on MH17 is a "violent act[ ] or act[ ] dangerous to human life" within the meaning of 18 U.S.C. § 2331(1). As the Court noted *supra*, while the Second Circuit opined that providing routine financial support to terrorist organizations is not "so akin to providing a loaded gun to a child," it did not preclude this Court from finding that such conduct is an act of "international terrorism." *Linde*, 882 F.3d at 327 ("We need not here decide whether we would ... conclude that a jury could find that direct monetary donations to a known terrorist organization satisfy § 2331(1)'s definitional requirements for an act of terrorism.").

Courts have made such a finding before, reasoning that when banks such as Sberbank and VTB Bank route payments and maintain accounts for terrorist organizations to enhance their ability to commit terrorist attacks, they are committing "acts dangerous to human life." *Miller v. Arab Bank*, PLC, 372 F. Supp. 3d 33, 45 (E.D.N.Y. 2019). The Court applies the same reasoning here. Plaintiffs allege that Defendants Sberbank, VTB Bank, Moneygram, and Western Union provided financial services to fundraisers and individuals who supported the DPR, and these fundraisers and individuals then provided the funds to the DPR before and after the attack

on MH17. Plaintiffs further allege that the fundraiser funds were confirmed by Igor Strelkov, the leader of the DPR, and additional funds were raised by Alexander Zhuchkovsky, who publicly boasted about raising millions for the DPR. Additionally, Plaintiffs allege that the funds raised were used to purchase lethal weapons prior to the attack on MH17. Thus, based on the well pleaded allegations in the Second Amended Complaint, Defendants committed an act of "international terrorism" within the meaning of 18 U.S.C. § 2331(1).

b. Intent

[18] Plaintiffs have adequately pleaded the requisite intent or knowledge required for 18 U.S.C. § 2339A and § 2339C. Plaintiffs allege that Defendants were deliberately indifferent to whether they were providing material support to the DPR or to whether they were providing financial services to the DPR that were used to carry out certain enumerated acts outlined in Sections 2339A and 2339C.

***7** **[19]** Under § 2339A, liability attaches when the provider of material support or resources knew or intended that its financial services would be used in preparation for or carrying out violations of the various criminal-law provisions referenced in subsection (a). 18 U.S.C. § 2339A(a). However, the provider need not have had the "specific intent to aid or encourage the particular attacks that injured plaintiffs." *Linde,* 384 F.Supp.2d at 586 n. 9.

[20] Under § 2339C, liability attaches when Defendants provide or collect funds with knowledge that such funds are to be used, in full or part, to carry out ... any ... act intended to cause death or serious bodily injury to a civilian ... 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. § 2339C(a)(1). The provision includes "giving, donating, and transmitting" funds and collection includes "raising and receiving" funds. 18 U.S.C. § 2339C(e)(4). Thus, providing financial services to a terrorist organization falls within the scope of § 2339C, to the extent that the financial institution receives and transmits the organization's funds. *See, e.g., Weiss,* 453 F.Supp.2d at 628–30 (concluding, after reviewing legislative history, that "maintenance of bank accounts[ ] and processing of deposits and withdrawals" constitutes provision and collection under § 2339C); *Linde,* 384 F.Supp.2d at 588 (denying motion to dismiss claims against bank for provision of financial services under § 2339C where bank received funds as deposits and transmitted funds to terrorist organizations).

[21] Regarding state of mind, like § 2339A, § 2339C does not require a showing of specific intent that the defendant acted to further the organization's terrorist activities or that it intended to aid or encourage the particular attack giving rise to a plaintiff's injuries. *Boim v. Quranic Literacy Inst. & Holy Land Found. For Relief And Dev.*, 291 F.3d 1000, 1023 (7th Cir. 2002) (Boim I). Rather, mere knowledge that the funds provided and collected would be used to carry out the predicate act is enough. *See, e.g., Linde,* 384 F.Supp.2d at 588 (denying motion to dismiss where the plaintiffs alleged that a financial institution knew that funds received as deposits and transmitted to various organizations "were to be used for conducting acts of international terrorism.").

Plaintiffs allege that Defendants were deliberately indifferent as to whether they were providing funds to the DPR due to the DPR's public crowdsourcing campaign, international recognition of their activities, funding of the DPR's leaders who identified their relation to the DPR, the DPR's publicizing of its terrorist activities across several websites, and the investigation by Ukrainian authorities into VTB Bank and Sberbank.

These allegations are sufficient to satisfy the intent requirement. The Court notes that Plaintiffs need not show that Defendants knew their providing of financial services would further terrorism or the attack on MH17. Rather, it is sufficient to show that it deliberately disregarded such facts while continuing to provide financial services to the DPR with knowledge that the services would in all likelihood assist the organization in accomplishing its goals. *Goldberg v. UBS AG*, 660 F. Supp. 2d 410, 428 (E.D.N.Y. 2009); *see also Boim* II, 549 F.3d at 685 (quoting *Makor Issues & Rights, Ltd. v. Tellabs Inc.*, 513 F.3d 702, 704 (7th Cir. 2008)) ("To give money to an organization that commits terrorist acts is not intentional misconduct unless one either knows that the organization engages in such acts or is deliberately indifferent to whether it does or not, meaning that one knows there is a substantial probability that the organization engages in terrorism but one does not care. 'When the facts known to a person place him on notice of a risk, he cannot ignore the facts and plead ignorance of the risk.' ")

***8** Here, Defendants were on notice of the DPR's activities. Plaintiffs cite news outlets, Forbes, the New York Times, Reuters and the Kyiv Post as reporting the DPR's funding scheme. Second Am. Compl. ¶¶ 162-167. For instance, Forbes discussed Defendant Sberbank facilitating payments

to Ukrainian soldiers to assist Russian Separatists in East Ukraine; a Reuters article titled "Ukraine says investigating Russia's Sberbank for financing terrorists;" and an April article by Kyiv post detailed the DPR's call for funds as well as references to Sberbank and VTB Bank's knowledge of the investigation initiated by Ukrainian authorities prior to the downing of the plane. Id. at ¶¶ 167-169. Additionally, Plaintiffs allege that the DPR has openly, publicly, and repeatedly carried out terrorist attacks on civilians, and these attacks were widely reported and discussed by nearly every government across the world, media, and human rights organizations. Second Am. Compl. ¶ 104.

Plaintiffs' allegations are sufficient to show that Defendants were deliberately indifferent as to whether they were providing financial support to the DPR. Notably, such allegations are especially sufficient where the DPR has not been designated as a Foreign Terrorist Organization. Plaintiffs have thus adequately pleaded the intent requirement under sections 2339A and 2339C.

c. Proximate Cause

[22] To satisfy the ordinary tort requirement of causation and foreseeability, as well as the textual requirement that injury be suffered "by reason of" an act of international terrorism, plaintiffs must plead that an alleged act of international terrorism proximately caused their injury. § 2333(a); *Boim III,* 549 F.3d at 691–98; *Biton v. Palestinian Interim Self-Gov't Auth.,* 310 F. Supp. 2d 172, 182 (D.D.C. 2004) (citing *Boim I,* 291 F.3d at 1011–12 (interpreting "by reason of" language of § 2333(a) as requiring showing that defendant's actions proximately caused plaintiffs' injuries)). "Foreseeability is the cornerstone of proximate cause, and in tort law, a defendant will be held liable only for those injuries that might have reasonably been anticipated as a natural consequence of the defendant's actions." *Biton,* 310 F. Supp. 2d at 182.

Regarding whether events are reasonably foreseeable, the Second Circuit has opined that,

> Assessment of what an observer could reasonably find "*appear[ed] to be intended*" depends on whether the consequences of the defendant's activities were reasonably foreseeable, *see, e.g.*, *Boim v. Holy Land Foundation for Relief & Development*, 549 F.3d 685, 693-94 (7th Cir. 2008), and reasonable foreseeability depends largely on what the defendant knew, *see id.* ("A *knowing* donor" to an FTO--"that is *a donor who knew*" the terroristic "aims and activities" directed at a particular territory--"would *know* ... that donations to" the entity would enable it to "kill more people in" the territory. "And *given such foreseeable consequences*, such donations would *appear to be intended* ... to intimidate or coerce a civilian population or to affect the conduct of a government by ... assassination, as required by section 2331(1) in order to distinguish terrorist acts from other violent crimes." (internal quotation marks omitted) (emphases ours)).

Weiss v. Nat'l Westminster Bank, PLC,, 993 F.3d 144, 161 (2d Cir. 2021).

[23] Defendants could have reasonably anticipated Plaintiffs' injuries, assuming Plaintiffs' allegations to be true. Defendants allegedly knew or were deliberately indifferent that they were providing financial services to the DPR through their charities and other intermediaries, and that the DPR used those services to buy lethal equipment to carry out their terroristic activities. *See* Intent discussion *supra.*

[24] Moreover, the lack of direct transfers to the DPR for the specific attack on MH17 is not dispositive of proximate cause. *See Strauss v. Credit Lyonnais, S.A.*, 925 F. Supp. 2d 414, 433 (E.D.N.Y. 2013) (Strauss I) ("[P]laintiffs who bring an ATA action are not required to trace specific dollars to specific attacks to satisfy the proximate cause standard. Such a task would be impossible and would make the ATA practically dead letter because '[m]oney is fungible.' ").

***9** In light of these allegations, Plaintiffs have adequately pleaded facts alleging Defendants' proximate causation of Plaintiffs' injuries. *See Weiss,* 453 F. Supp. 2d at 632 (concluding that plaintiffs plead proximate cause where they alleged that bank provided financial services to terrorists before terrorist attack).

d. Act of War exception

Congress has, however, precluded claims for injury resulting from an act of war: "No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war." 18 U.S.C. § 2336(a). In order to state a claim for civil damages under Section 2333(a), plaintiffs must allege that the decedents were injured "by reason of" acts of "international terrorism." Defendants argue that the DPR is a military force, engaged in armed conflict in Ukraine. Therefore, since MH17 was downed during this armed conflict, Plaintiffs' claims are barred by the ATA's act of war exclusion. The issue before the court, therefore, is whether this legal conclusion is supported by plaintiffs' factual allegations.

The ATA defines "act of war" to mean any act occurring in the course of-

> (A) declared war;
>
> (B) armed conflict, whether or not war has been declared, between two or more nations; or
>
> (C) armed conflict between military forces of any origin.

18 U.S.C. § 2331(4).

[25] Defendants' submissions focus on (B) and (C); therefore, the Court's analysis shall focus on whether the DPR is a military force. The Complaint alleges that MH17 was downed by the DPR, a terrorist group based on an ideology of Russian supremacy by creating a proto-state, Novorossiya, through the control of territory in Ukraine. Am. Compl. ¶ 88. The DPR has not been designated a Foreign Terrorist Organization. There is a lack of authority on whether a non-designated terrorist organization can constitute a "military force" for purposes of 18 U.S.C. § 2331(4)(C). Courts have opined that:

> "there are undoubtedly differences between military forces and terrorists. A conventional dictionary definition of "military" is "armed forces" or the persons serving in them. "Armed forces," in turn, are "the combined military, naval, and air forces *of a nation.*" In contrast, "terrorism" is conventionally defined as "the systematic use of terror especially as a means of coercion." "Terror" itself is defined as "violent or destructive acts (as bombing) committed by *groups* in order to intimidate a population or government into granting their demands." "

Weiss v. Arab Bank, PLC, No. 06 CV 1623, 2007 WL 4565060, at *3–5 (E.D.N.Y. Dec. 21, 2007)

The DPR, as Plaintiffs allege it to be, is a terrorist group operating in eastern Ukraine that acquired that territory through force and intimidation, and the DPR continues to engage in violent acts against civilians, which often includes torture and murder. Second Am. Compl. ¶¶ 1, 88-101. Thus, as alleged in the Second Amended Complaint, which the Court assumes as true for the purposes of this motion, the DPR is not a nation with armed forces. Rather, the DPR is a terrorist group that uses intimidation and violence attacks against citizens, as it did when it downed MH17. Therefore, the Court finds that based on the allegations in the Second Amended Complaint, the DPR is not a military force or nation for purposes of 18 U.S.C. § 2331 (4)(B) and (4)(C).

CONCLUSION

***10** For the aforementioned reasons, Plaintiffs' have adequately pleaded claims pursuant to 18 U.S.C. §§ 2331, 2339A, and 2339C. Therefore, Defendants' motions to dismiss the second amended complaint are denied. (ECF Nos. 160, 165, 168.)

SO ORDERED.

All Citations

--- F.Supp.3d ----, 2021 WL 4482172

Footnotes

1 The DPR's leader, Igor Ivanovich Strelkov, took credit for the attack on the plane. Am. Compl. ¶ 77.

Annex 69

Sir Robert Jennings & Arthur Watts, *Interpretation of Treaties*, in OPPENHEIM'S INTERNATIONAL LAW: VOLUME 1 PEACE (Robert Jennings & Arthur Watts, eds., Oxford University Press 9th ed. 2008)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

Part 4 International transactions, Ch.14 Treaties, Interpretation of Treaties

Sir Robert Jennings qc, Sir Arthur Watts kcmg qc

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Subject(s):

Rules of treaty interpretation

interpreted as producing and as intended to produce effects in accordance with existing law and not in violation of it'. [23]

§ 633 Supplementary means of interpretation

The application of the basic rule of interpretation laid down in Article 31 of the Vienna Convention will usually establish a clear and reasonable meaning: if such is the case, there is no occasion to have recourse to other means of interpretation. In its opinion on the *Admission of a State to the United Nations* the International Court said: 'The (p. 1276) Court considers that the text is sufficiently clear; consequently it does not feel that it should deviate from the consistent practice of the Permanent Court of International Justice, according to which there is no occasion to resort to preparatory work if the text of a convention is sufficiently clear in itself'.[1]

However, having established a clear and reasonable meaning in accordance with the basic rule, there is no objection to recourse to other, supplementary means of interpretation in order to confirm that meaning:[2] tribunals have often done this.[3] If the application of the basic rule leaves the meaning ambiguous or obscure, or if it leads to a result which is manifestly absurd or unreasonable,[4] recourse may also be had to supplementary means of interpretation.[5]

The supplementary means of interpretation which are permitted in these circumstances are not rigidly separated from nor are they an alternative to, the means which form part of the general rule. They are an aid to an interpretation governed by the principles contained in the general rule.[6] The supplementary means of interpretation include the various 'discretionary' aids to which reference was made earlier.[7] Their value and relevance vary from treaty to treaty, and the selection of the 'right' aids to apply in a particular case is to some extent a matter of art as well as of science. Considerations which affect the choice include any clear indications of the parties' intentions as to the exclusion or inclusion of a particular aid; whether the treaty is multilateral or bilateral; the subject matter of (p. 1277) the treaty; the kind of language used; the arrangement of words and parts of the treaty; and the circumstances of its conclusion. Mention may be made of the following supplementary means of interpretation:

(1) *travaux préparatoires* [8] — ie the record of the negotiations preceding the conclusion of a treaty, the minutes of the plenary meetings and of committees of the Conference which adopted a treaty, the successive drafts of a treaty, and so on — may be resorted to. [9] The International Court of Justice and its predecessor have frequently affirmed the usefulness of recourse to *travaux préparatoires*. [10] . The value of preparatory work in shedding light on the meaning of a treaty will vary from case to case. Often the records of treaty negotiations are incomplete, and do not adequately cover compromises arrived at during the final stages of a conference or those reached privately away from the negotiating table: the negotiating records inevitably relate to matters taking place before the final expression of the parties' intentions has been made. However, where a treaty has been negotiated with thorough preparation and full deliberation, and an efficient and complete record (at least so far as concerns the point at issue) has been kept, the value of the *travaux préparatoires* may be great, [11] but even a full record will not necessarily (p. 1278) produce conclusive evidence in support of one view or the other, and may rather provide material to support a number of alternative views.

A particular problem arises where a state accedes to a treaty in the negotiation of which it took no part. In the *Territorial Jurisdiction of the International Commission of the River Oder* [12] case the Permanent Court refused to take the *travaux préparatoires* into account because three of the states which were parties to the proceedings had not participated in the negotiation of the treaty in question. This decision may not

reflect a rule of customary law, [13] at least if the *travaux préparatoires* are published or, if not published, are accessible for inspection by an acceding state before it accedes. In the *Aerial Incident* case [14] the International Court of Justice referred to the *travaux préparatoires* of the statute of the Court, without adverting to the fact that neither state before the Court had participated in the negotiations.

(2) The circumstances of a treaty's conclusion may be invoked to ascertain its meaning, [15] since a treaty is not concluded as an isolated act but as part of a continuing series of international acts which shape and limit the circumstances with which the treaty deals.

(3) The principle *in dubio mitius* applies in interpreting treaties, in deference to the sovereignty of states. If the meaning of a term is ambiguous, that meaning is to be preferred which is less onerous to the party assuming an obligation, or which interferes less with the territorial and personal supremacy of a party, or involves less general restrictions upon the parties. [16] However, in applying this principle regard must be had to the (p. 1279) fact that the assumption of obligations constitutes the primary purpose of the treaty, and that, in general, the parties must be presumed to have intended the treaty to be effective [17] (see (9) below). Further, it is usual for courts to interpret strictly exceptions to a principal provision imposing obligations on a state, notwithstanding that the principle *in dubio mitius* might suggest that the exception be given a liberal interpretation. [18]

(4) If two meanings are admissible, the provision should be interpreted *contra proferentem*, ie that meaning which is least to the advantage of the party which prepared and proposed the provision, or for whose benefit it was inserted in the treaty, should be preferred. [19]

(5) The maxim *expressio unius est exclusio alterius* has been followed in the interpretation of treaties by international tribunals in a number of cases, (p. 1280) as has the *ejusdem generis* rule of construction. [20] Both are essentially grammatical rules.

(6) *Generalia specialibus non derogant* is a maxim which has sometimes been applied in order to resolve apparent conflicts between two differing and potentially applicable rules. [21] It is, however, not always easy to determine which of the two rules is the general one and which the specific.

(7) If a state is commonly known to uphold the meaning of a term which is different from the generally accepted meaning, another state concluding a treaty with it will be assumed, unless the contrary is established, to have consented to that special meaning. [22]

(8) If the meaning of a provision is ambiguous, and one of the parties at a time before a case arises for the application of the provision makes known what meaning it attributes to it, another party cannot, when a case for its application does occur, insist upon a different meaning unless it has previously taken necessary steps (such as protest) [23] to rebut the implication that it has acquiesced in the meaning put forward. [24]

(9) The parties are assumed to intend the provisions of a treaty to have a certain effect, and not to be meaningless: the maxim is *ut res magis valeat quam pereat*. [25] Therefore, an interpretation is not admissible which would make a provision meaningless, or ineffective. [26] On the other hand, (p. 1281) the absence of a full measure of effectiveness may be the direct result of the inability of the parties to reach agreement on fully effective provisions; [27] in such a case the court cannot invoke the need for effectiveness in order in effect to revise the treaty to make good the parties' omission. The doctrine of effectiveness is thus not to be thought of as

justifying a liberal interpretation going beyond what the text of the treaty justifies. [28] Effectiveness is relative to the object and purpose of the treaty, a decision as to which will normally first have to be made. [29]

(10) The rules commonly applied by national courts for the interpretation of municipal laws are only applicable to the interpretation of treaties, and particularly of law-making treaties, insofar as they constitute general rules of jurisprudence. [30]

(11) A treaty is to be interpreted in the light of general rules of international law in force at the time of its conclusion — the so-called inter-temporal law. [31] This follows from the general principle that a juridical fact must be (p. 1282) appreciated in the light of the law contemporary with it. Similarly, a treaty's terms are normally to be interpreted on the basis of their meaning at the time the treaty was concluded, [32] and in the light of circumstances then prevailing. [33]

Nevertheless, in some respects the interpretation of a treaty's provisions cannot be divorced from developments in the law subsequent to its adoption. Thus, even though a treaty when concluded did not conflict with any rule of *ius cogens*, it will become void if there subsequently emerges a new rule of *ius cogens* with which it is in conflict. [34] Similarly, the concepts embodied in a treaty may be not static but evolutionary, in which case their 'interpretation cannot remain unaffected by the subsequent development of law …. Moreover, an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation'. [35] While these considerations may in certain circumstances go some way towards negating the application of the inter-temporal law, that law will still, even in such circumstances, provide at least the starting point for arriving at the proper interpretation of the treaty.

(p. 1283) § 634 Plurilingual treaties

Many treaties are now authentic in more than one language.[1] The Vienna Convention provides that in such a case the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.[2] Since it is fundamental that although there is more than one authentic text there is only one treaty with one set of terms, the presumption is that the terms have the same meaning in each authentic text:[3] the normal means of interpretation[4] must first be applied to any ambiguity or obscurity in order to ascertain the intentions of the parties and to arrive at a meaning which is the same for each text. Despite all reasonable efforts (p. 1284) to this end, the application of the normal means of interpretation may still not remove a difference of meaning disclosed by a comparison of the authentic texts: in that event, and unless the parties have agreed that a particular text prevails, the meaning which best reconciles the texts, having regard to the object and purposes of the treaty, is to be adopted.[5]

Footnotes:

1 Eg 'it is not allowable to interpret what has no need of interpretation' (Vattel, ii, § 263); see also the *UN Admissions (Competence of General Assembly) Case*, ICJ Rep (1950), p 8; *The Lotus Case* (1927), PCIJ, Series A, No 10, p 16; *Italy v Federal Republic of Germany* (1959), ILR, 29, pp 442, 449.

The need for there to be some lack of clarity in a text before having recourse to interpretative procedures has been much considered in the context of the requirement laid upon national courts in states members of the EC to refer certain matters of Community law to the European Court of Justice for preliminary rulings under Art 177 of the Treaty establishing the EEC 1957. See on the 'acte claire' doctrine, Lagrange, CML Rev, 8 (1971),

Annex 70

A.P. Ryjakov, *Commentary to Art. 140,* in COMMENTARY TO THE CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION (9th rev. ed. 2014)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

COMMENTS TO THE CODE OF CRIMINAL PROCEDURE OF THE RUSSIAN FEDERATION

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effective as of September 16, 2014

9th edition, revised

A.P. RYZHAKOV

PART ONE. GENERAL PROVISIONS

Section I. KEY PROVISIONS

Chapter 1. CRIMINAL PROCEDURE LAW

[. . .]

PART TWO. PRETRIAL PROCEEDINGS

Section VII. INITIATING A CRIMINAL CASE

Chapter 19. REASONS (INDICTABLE OFFENCES) AND GROUNDS NEEDED TO INITIATE A CRIMINAL CASE

Chapter 140. Reasons (indictable offences) and grounds needed to initiate a criminal case

Comments to Article 140

1. Criminal proceedings, and also actions performed at the initial stage of criminal proceedings, the stage when a criminal case is instituted, arise only when a reason and grounds are present, that is an indictable office and grounds to institute criminal proceedings.

2. The commented article sets forth an exhaustive list of indictable offenses needed to initiate a criminal case. It also describes actual grounds needed to initiate a criminal case. "To initiate a criminal case" means to make a decision (a decision to initiate a criminal case), which completes (rather than commences) the stage that bears the same name. Names of indictable offenses and general characteristic of actual grounds are provided in the analyzed article. They do not start criminal proceedings but rather complete its initial stage.

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4. In other words, to fully comprehend the gist of the commented article one definitely needs to completely figure out each concept detailed in this standard of law. These are the following concepts:

- a reason needed to institute criminal proceedings;
- a reason needed to initiate a criminal case;
- actual grounds needed to institute criminal procedures;
- actual grounds needed to initiate a criminal case.

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7. After analyzing the wordings used by the legislator in Part 1 of the commented article, given the content of Articles 21, 39, 40, 146, and 163 of the Code of Criminal Procedure, one should conclude that, generally speaking, an indictable offense needed to initiate a criminal case is the first source of awareness given to an investigator (a detective, etc.) regarding an offense that is prepared, committed or completed

(or its consequences), which contain indictable criminal acts in any crime.

8. Authors of other comments to Article 140 of the Code of Criminal Procedure sometimes think that different aspects should be regarded as causes needed to initiate a criminal case. Specifically, A.N. Shevchuk thinks that they should include "notices about crimes contained in a crime incident report, voluntary self-disclosure, or other sources" [661]. It is quite noticeable that, given such definition, the author equalizes, at the very minimum, the form of a certain legal fact and the substance of another legal fact, that is between a reason to initiate a criminal case and grounds to institute criminal proceedings.

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[661] See: Comments to the Code of Criminal Procedure of the Russian Federation. New edition. p. 263; etc.

9. It is commonly believed that reasons to start criminal proceedings are not different from reasons to initiate a criminal case. Generally speaking, this is true. However, certain additional explanations are needed. Indeed, the list of awareness sources provided in the commented article regarding a specific action (consequences of an action) limits the scope of possible reasons to initiate a criminal case and to institute criminal proceedings.

10. However, it is all but impossible to ignore the existing ties between the form and substance of an event. In our case, the reason is the form and the grounds are the substance of an event, which is called "a legal fact." In one case, a legal fact leads to instituting criminal proceedings and in the other case it initiates a criminal case.

11. Actual grounds impose their specific features on reasons, or more precisely on the substance of information that describes it. Whatever may be sufficient to institute criminal proceedings is often insufficient to make a decision to initiate a criminal case.

12. If one to look at the external (formal, not substantive) characteristics, a reason to start criminal proceedings and a reason needed to initiate a criminal case are the same thing. Moreover, reasons for instituting criminal proceedings in some cases already contains grounds to initiate a criminal case immediately (and, therefore, the grounds to institute criminal proceedings). In such situations, undoubtedly, a reason (indictable offense) needed to initiate a criminal case is also, at the same time, a reason to start criminal proceedings. Or the opposite: a reason to institute criminal proceedings is, at the same time, a reason to initiate a criminal case.

13. In the introduction regarding initiating criminal cases, the legislator wants to specifically see information regarding reasons to start criminal proceedings, that is who and when reported about a crime. The fact that such information, according to the law, should be reflected in an order initiating a criminal case, in and of itself, indicates that the legislator doesn't see significant differences between these two concepts.

14. Therefore, one may conclude that Part 1 of the commented article provides an exhaustive list of reasons not only for initiating criminal cases but also for instituting criminal proceedings. The general requirements applied to the majority of reasons are set forth in Articles 141-143 of the Code of Criminal Procedure.

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37. A reason for initiating a criminal case should be stated in one of the documents described in Articles 141-143 of the Code of Criminal Procedure. Based on this tenet, a report should made indicating what elements of crime were detected in a situation that we review. Then, a prosecutor, provided there are actual bases, is required to submit such report, as prescribed in Item 3, Part 1, Article 145 of the Code of Criminal Procedure, to a preliminary investigation agency of proper jurisdiction to perform a preliminary confirmation a crime report, as provided in Article 144 of the Code of Criminal Procedure.

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39. Now it would make sense to proceed to explaining the provisions of Part 2 of the commented article. Based on literal interpretation of this standard, one may conclude that it deals with the grounds for initiating criminal cases. However, it only speaks about actual grounds to initiate a criminal case. A legal ground to initiate a criminal case is a properly executed order about initiating a criminal case. Article 146 of the Code of Criminal Procedure provides characteristics of such procedural documents. The law provides no legal basis to institute criminal proceedings.

40. If the reasons to initiate or terminate a criminal case are equal concepts, then actual grounds to

initiate a criminal case usually can't be the same as actual grounds to institute criminal proceedings.

41. Part 2 of the commented article literally states that: "existence of sufficient information confirming the elements of a crime serves as the grounds to initiate a criminal case." In addition to the need to differentiate actual grounds to initiate a criminal case and actual grounds to institute criminal proceedings, the aforementioned concept also leads to two additional questions: what kinds of elements does this Article's passage imply and what does "sufficient information" mean? Let's start with answering the question about the concept of "elements of a crime" in the meaning used by the legislator in the commented article.

42. Elements of a crime are a criminal concept that has two meanings: the elements of a crime, as the general concept, and indicators of a crime. When the procedural buffs speak about the elements of a crime to describe specifics of actual grounds used to initiate a criminal case, most often they mean *indicators of a crime*. But it is consistent when this term is used without any additional details describing specific features of actual grounds used to initiate a criminal case? It does not look right for two reasons. Firstly, when the procedural buffs generally speak about the indicators of a crime, they make those who applies the law think that a criminal case may only be initiated when such factor is present (the existence of all element of a crime[669]). Secondly, the lack of specifics--what specific elements of a crime are we talking about--leads to a nonsensical conclusion that the existence of sufficient information about any elements of a crime provides valid grounds to initiate a criminal case.

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[669] The fact that a criminal case should be brought only after confirming the existence of all elements of a crime is a long-standing delusion of some procedural buffs. For example, see: K.A. Sergeyev. Investigation planning / K.A. Sergeyev, L.A. Soya-Serko, N.A. Yakubovich. M., 1975. Page 60.

43. As we known, indicators of a crime are subdivided into four categories (by elements of a crime): features of a subject, mental state, an object, and conduct. Moreover, if such elements as a subject and mental state are identified without identifying a criminal act, this definitely may not provide grounds, in and of itself, to initiate a criminal case. Otherwise the provisions of Part 2, Article 21 of the Code of Criminal Procedure, which are applied to investigators (detectives, etc.) and require them to take certain steps every time when the elements of a crime are discovered, i.e. to take actions required by the Code of Criminal Procedure to establish events surrounding a crime and discover people guilty of committing such crime, could be interpreted as the need to apply the above measures in each uncovered case, which means a person have reached the age when he/she may be criminally prosecuted.

44. Other scholars also indicate: "to initiate a criminal case, there is no need to have information about a person who committed a crime, it can be completely absent." [670].

ConsultantPlus: note.

Comments to the Code of Criminal Procedure of the Russian Federation made by B.T. Bezlepkin are included in the data bank as per the publication - Prospect, 2012 (11th edition, revised and supplemented).

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[670] For example, see: Bezlepkin B.T. Comments to the Code of Criminal Procedure of the Russian Federation. p. 176; etc.

45. When making a decision as to initiating a criminal case, the existence of a subject or mental state are meaningless if they are not connected to a criminal act.

46. There should be no equality between the actual grounds to initiate a criminal case and the existence of sufficient information about all indicators of a crime.

47. Such interpretation of Part 2, Article 140 of the Code of Criminal Procedure [671] may lead to negative impact in some cases when agencies in charge of initiating criminal cases, without making proper decisions as to the initiation of criminal cases, would be dealing with preliminary investigation matters, i.e. establishing all circumstances described in Article 73 of the Code of Criminal Procedure.

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[671] Or its predecessor, Part 1, Article 108 of the Code of Criminal Procedure.

48. Typically, there is not enough information regarding all elements of a crime at the initiation stage in a criminal case. For example, a person who committed a crime is quite often unknown, state of mind is unknown, etc. If we accept that the elements of a crime are actual grounds to initiate a criminal case, than each instance of initiating a criminal case for unsolved crimes would become illegal. This is because there is no indication yet who committed a crime, there is no subject, a required element in any crime. It can easily turn out that a socially dangerous act was committed by a deranged person or a person under 14 (16), etc.

49. The challenge of establishing a subject and mental element is for the stage that follows the initiation of a criminal case, the preliminary investigation stage. Only after the production of investigative actions is it permissible to speak of any degree of proof of a person's guilt in committing a crime. It is unacceptable to use agencies who verify crime reports in order to determine who committed a crime.

50. Likewise, one may conclude that part 2, Articles 140 of the Code of Criminal Procedure implies that the grounds for initiating a criminal case are understood as sufficient data at the disposal of the competent authority that indicate procedurally significant signs of the *objective side* of the crime. The majority of procedural buffs adhere to such position regarding grounds for initiating a criminal case [672].

ConsultantPlus: note.

Comments to the Code of Criminal Procedure of the Russian Federation made by B.T. Bezlepkin are included in the data bank as per the publication - Prospect, 2012 (11th edition, revised and supplemented).

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[672] For example, see: Bezlepkin B.T. Comments to the Code of Criminal Procedure of the Russian Federation. p. 176-177; etc.

51. At the same time, we need to note that we are not talking about all elements of a criminal act. In other words, sufficient information about a criminal act in the elements of a crime do not always provide actual grounds to initiate a criminal case.

52. Based on the structure of a criminal act, we may discuss features that characterize causes, consequences, places, time, etc. of a committed crime. However, only the first two groups, that is information available to the preliminary investigation agencies regarding the elements of a socially dangerous act and the elements of socially dangerous consequences of it, may lead to the emergence of any criminal procedure we are discussing.

53. Therefore, as a matter of criminal law, the concept of "elements of a crime" includes all elements of a crime and, as a matter of criminal procedure law, as it is used in Part 2 of the commented article, only the elements of a socially dangerous act and socially dangerous consequences are included. However, neither an act nor consequences of a crime, in any case, and none of them separately, should play an equally important role in making decisions regarding instituting criminal proceedings and even less so in initiating a criminal case.

54. The existence of some of them, for example:

- a death of a person;
- a death of two or more people;
- large scale killing of animals;
- other serious consequences

despite any simultaneous discovery of other elements, in and of itself would predetermine that a proper authority holding information about such event would be engaged in a criminal procedure. Furthermore, having sufficient information about such matters provides actual grounds to initiate a criminal case. Other authors who provide comments regarding Article 140 of the Code of Criminal Procedure also point out to this forty-year old practice of preliminary investigation agencies. For example, B.T. Bezlepkin notes that "practically speaking, in each large incident (fire that caused death, a railroad, water or air transportation crash, etc.) would immediately initiate a criminal case" [673]. We are talking here about the so-called significant criminal acts that lead to consequences with criminal procedures.

ConsultantPlus: note.

Comments to the Code of Criminal Procedure of the Russian Federation made by B.T. Bezlepkin

are included in the data bank as per the publication - Prospect, 2012 (11th edition, revised and supplemented).

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[673] See: Comments to the Code of Criminal Procedure of the Russian Federation. M.: TK Velby. p. 208.

55. Other (insignificant) elements, as far as the criminal procedure is concerned, either acts or consequences, provide actual grounds solely if they are fully proven and in certain combinations with each other. Typically, consequences are deemed insignificant if they can't be treated as criminal acts without establishing certain elements of such acts. And the opposite, sufficient information about elements of an action almost never (if materially defined crime is alleged) is used as actual grounds to initiate criminal cases, unless they are combined with elements provided in the criminal law. Some examples of insignificant elements of crime, as far as criminal procedures are concerned:

- causing damage that doesn't reach the threshold to file criminal charges [674];

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[674] This element is absent only when there is no doubt that the scope of damage and its miniscule nature, in and of themselves, indicate the absence of proper elements of a crime.

- causing personal injury;
- traffic offense, etc.

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69. Now we need to figure out what does the term "sufficient information" stand for?

70. There is an opinion in scholarly legal papers that the grounds for initiating a criminal case are "the actual information indicating that a crime was committed" [677]. Proponents of this definition of actual grounds for initiating a criminal place the existence of information at the very top, instead of sufficiency of information. Such claim has holes.

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[677] See: Bazhanov M.I. Investigations in Police Agencies / M.I. Bazhanov, A.D. Kogan. Kharkov, 1956. page 9; etc.

71. Information containing elements of a crime is also available when actual grounds exist before a criminal case initiation stage is commenced. However, Part 2 of the commented article speaks about the actual grounds at the end of the said stage, i.e. it is something quite different. Otherwise we will have to equalize actual grounds existing at the beginning of a criminal case initiation stage with actual aground existing at the beginning of the next stage in criminal proceedings, the preliminary investigation stage, which doesn't sound right.

72. Indeed, a situation may occur early in criminal proceedings when proper authorities would be having actual grounds to initiate a criminal case immediately. However, the existence of Article 144 in the Code of Criminal Procedure, and also its language, indicate that the legislator has also provided some other opportunity. We are talking about a situation when, in order to discover "sufficient information to show elements of a crime"... "a detective, inquiry agency or investigator" is provided some time. Accordingly, criminal proceedings in such case begin when there are still no actual grounds to initiate a criminal case. However, but there are grounds to institute criminal proceedings. Based on preliminary review of a complaint (notice) regarding a crime, actual grounds to initiate a criminal case may be discovered. Still, they would only arrive after a preliminary review. This indicates that the legislator sees a difference between actual grounds to institute criminal proceedings and actual grounds to initiate a criminal case.

73. Grounds to initiate a criminal case, so to speak, are placed at a higher level in the rules of criminal procedure. This level is not only defined by the availability of any information regarding a possible crime but also by "sufficiency" of such information to initiate a criminal case.

74. Information becomes sufficient once an agency authorized to bring criminal charges gather enough materials (evidence) to generate confidence in indisputable existence of procedurally significant elements of a criminal act. Typically, sufficient information is generated during a preliminary review of complaints (notices) about a crime. However, sometimes they can be contained directly in the reason for instituting criminal proceedings.

75. We have reviewed all elements of the concept "actual grounds to initiate a criminal case," which is discussed in Part 2 of the commented article. We still need to discuss several additional features of the concept "grounds to institute criminal proceedings," which is a different thing.

76. In the Code of Criminal Procedure, the law does not provide legal foundations for a written document to be used to institute criminal proceedings. The grounds to institute criminal proceedings imply actual and appropriate grounds.

77. Actual grounds to institute criminal proceedings exist when there is a possibility that an incident, which is described in the reason (cause of action), contains elements of a crime that are significant, as far as criminal procedures are concerned. Any possible existence of a socially dangerous act or socially dangerous consequences (if a reason provided in Part 1 of the commented article is present) should lead to emergence of criminal procedures, which are culminated in a criminal trial (criminal case).

Annex 71

Nils Melzer, *The Principle of Distinction Between Civilians and Combatants*, in THE OXFORD HANDBOOK OF INTERNATIONAL LAW IN ARMED CONFLICT (Andrew Clapham & Paola Gaeta, eds., Oxford University Press 2014)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

Part IV Key Concepts for Humanitarian Law, Ch.12 The Principle of Distinction Between Civilians and Combatants

Nils Melzer

From: The Oxford Handbook of International Law in Armed Conflict
Edited By: Andrew Clapham, Paola Gaeta, Tom Haeck (Assistant Editor), Alice Priddy (Assistant Editor)

Content type: Book content
Product: Oxford Scholarly Authorities on International Law [OSAIL]
Series: Oxford Handbooks in Law
Published in print: 13 March 2014
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Subject(s):

Combatants — Geneva Conventions 1949 — Armed conflict — Protected persons and property

> 3. Persons, other than members of a party to the conflict's armed forces, who take a direct part in the hostilities. They, however, temporarily lose their immunity from attack while they assume a combatant's role. [89]

In sum, as in the case of international armed conflict, a civilian in non-international armed conflict is anyone not belonging to the 'armed forces' of a party to the conflict (Common Article 3) or, respectively, to state 'armed forces', 'dissident armed forces' or other 'organized armed groups' of a party to the conflict (Article 1(1) of (p. 318) AP II).[90] Where persons directly participate in hostilities without being integrated into such organized armed forces or groups, even if they intend to support one of the parties to the conflict, they remain civilians and lose protection against direct attack only for such time as their direct participation lasts.[91]

(iv) Combatants

(a) Combatant privilege

Treaty IHL governing non-international armed conflict does not use the notion of combatant, nor does it provide for combatant privilege (ie immunity from prosecution for lawful acts of war). While domestic legislation in most countries provides members of state armed forces with protection from prosecution for lawful acts of state (ie a status equivalent to combatant privilege), members of organized armed groups remain subject to prosecution for violations of domestic law even if they comply with IHL. Although states can hardly be expected to provide insurgents with immunity from prosecution for death, injury, and destruction caused in rebellion against their government, the lack of any form of combatant privilege for non-state belligerents is not unproblematic.

Most importantly, apart from the general encouragement to afford the 'broadest possible amnesty to persons who have participated in the armed conflict' at the end of hostilities,[92] IHL does not provide members of organized armed groups with any incentive to respect IHL and to distinguish themselves from the civilian population. This may contribute to a destructive downward spiral, with non-state belligerents distancing themselves from their obligations under IHL and, in turn, states stigmatizing non-state belligerents with blanket labels such as 'terrorists' and 'unlawful combatants' and increasingly questioning the appropriateness of the rights and protections afforded to them under IHL.

(b) Functional combatancy

The combatant privilege, which separates persons who are entitled to immunity from domestic prosecution for lawful acts of war from persons who are not, must not be confused with our discussion of the principle of distinction between civilians and combatants, which separates persons who may lawfully be attacked from those who may not. Indeed, the concept of combatancy in a strictly functional sense is anything but alien to IHL governing non-international armed conflicts. Already the (p. 319) draft of Additional Protocol II proposed by the ICRC in 1973 and the amended draft Protocol adopted by consensus in Committee III of the Diplomatic Conference of 1974 to 1977 used the term combatant without implying the existence of *privileged* combatancy in non-international armed conflict. Draft Article 24(1) of AP II reads as follows:

> In order to ensure respect for the civilian population, the parties to the conflict shall confine their operations to the destruction or weakening of the military resources of the adversary and shall make a distinction between the civilian population and combatants, and between civilian objects and military objectives.[93]

When, in the last moment, this draft Article was discarded along with 23 others, the reason was not that the contracting states wanted to dispense with the principle of distinction between civilians and combatants in non-international armed conflict but, rather, their fear that the use of the term combatant in the treaty text could be misconstrued as indicating the legitimacy of an insurgency or would otherwise encourage insurrection.

(c) International jurisprudence

The concept of combatancy has also been used in international jurisprudence dealing with situations of non-international armed conflict. In the *Tadić Case*, for instance, the ICTY referred to 'an individual who cannot be considered a traditional "non-combatant" because he is actively involved in the conduct of hostilities *by membership* in some kind of resistance group',[94] thus permitting no other conclusion than that the individual in question is a combatant. Significantly, in the view of the Tribunal, the decisive element for combatancy appears to be 'membership' in some kind of an organized armed force or group. Further, in its Country Report on Colombia (1999), the Inter-American Commission on Human Rights made clear that combatants must be distinguished from civilians directly participating in hostilities. Thus, according to the Commission, '[i]t is important to understand that while these persons forfeit their immunity from direct attack while participating in hostilities, they, nonetheless, retain their status as civilians. *Unlike ordinary combatants*, once they cease their hostile acts, they can no longer be attacked, although they may be tried and punished for all their belligerent acts'.[95]

(d) State practice

As far as state practice is concerned, many military manuals use the term 'combatant', but most were drafted with a view to international armed conflicts and (p. 320) do not necessarily provide for the formal applicability of the same categories in non-international armed conflicts. An instructive example of national practice referring specifically to non-international armed conflicts is the 2009 US Field Manual on 'Tactics in Counterinsurgency' (FM 3-24.2) which 'establishes doctrine […] for tactical counterinsurgency (COIN) operations' and is based 'on lessons learned from historic counterinsurgencies and current operations'.[96] According to the manual, an insurgent organization normally consists of five elements, namely leaders, guerrillas, underground, auxiliaries, and mass base.[97] The four non-combatant categories are defined as follows:

> Leaders provide direction to the insurgency. They are the 'idea people' and the planners. […] Generally, they convey the ideology of the insurgency into objectives and direct the military efforts of the guerrillas.[98]
>
> The underground is a cellular organization of active supporters of the insurgency […]. They are more engaged than the auxiliaries are and may at times be guerrillas, if they use weapons or conduct combat operations. […] Members of the underground often continue in their normal positions in society, but lead second, clandestine lives for the insurgent movement. […] The underground may: Spread propaganda; Support sabotage, assassination and subversion; Support intelligence and counterintelligence operations; Run safe houses; Provide transportation; Manufacture and maintain arms and explosives.[99]
>
> […] Auxiliaries are active sympathizers who provide important logistical services but do not directly participate in combat operations. If they participate in guerrilla activities, they become guerrillas. […] Examples of support that auxiliaries provide include: Store weapons and supplies; perform courier operations; provide passive intelligence collection; give early warning of counterinsurgent movements; acquire funds from lawful and unlawful sources; provide forged or stolen documents; promote and facilitate desertion of security forces; recruit and screen new

> members; create and spread propaganda; provide medical support; manufacture and maintain equipment.[100]
>
> The mass base consists of the population of the state who are sympathetic to the insurgent movement. […] This mass base, by default, passively supports the insurgency. As occasions arise, they may provide active support. […][101]

Most relevant for the present discussion, however, is the description of guerillas (combatants) and of certain activities associated with combatant function:

> A guerrilla is any insurgent who uses a weapon of any sort and does the actual fighting for the insurgency. They may conduct acts of terror, guerrilla warfare, criminal activities, or conventional operations. They are often mistaken for the movement or insurgency itself; but they are merely the foot soldiers of the movement or insurgency […].[102](p. 321)
>
> Guerrillas may continue in their normal positions in society and lead clandestine lives for the insurgent movement. Guerrillas tend to organize themselves based upon the activity they will be conducting. Those focused on using terrorism usually operate individually or in small cells and are often armed with explosives instead of weapons.[103]

In sum, the Field Manual on Tactics in Counterinsurgency makes clear that there are several levels of support for an insurgent party to the conflict, which range from general and political support to movement leadership, and that only persons assuming actual fighting function are regarded as combatants (guerrillas).

(e) Generic use of the term ‘combatant’ for all persons subject to lawful attack

As has been shown above, the ICRC’s study on customary IHL comes to the conclusion that, even in situations of non-international armed conflict, ‘[t]he parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians’.[104] The study emphasizes that the term combatant in this rule is used in its generic meaning, that is to say, that it does not imply an entitlement to combatant privilege or POW-status but describes persons who do not enjoy civilian protection against attack.[105] According to this interpretation, the notion of combatant would not only include members of state armed forces and organized armed groups (regular and functional combatants), but also civilians directly participating in hostilities. While the terminology chosen by the ICRC is perfectly justified in the generic context in which it is used, it should not be misunderstood as a technical definition of combatancy. The danger of using the term ‘combatant’ in this expansive sense is that it implies a continuous status or function. Describing civilians directly participating in hostilities as ‘combatants’, therefore, is likely to lead to their targeting not only while they are actually carrying out an act amounting to direct participation in hostilities, but even in the interval between specific hostile acts. This would be contrary to customary and treaty IHL, according to which civilians lose protection against direct attack only ‘for such time as they take a direct part in hostilities’.[106] The description of civilians directly participating in hostilities as combatants also contradicts the very formulation of the principle of distinction, according to which civilians and combatants must be mutually exclusive categories. It (p. 322) is therefore generally preferable to restrict the use of the term ‘combatant’ to state armed forces and organized armed groups and exclude civilians directly participating in hostilities.

Annex 72

Richard Gardiner, TREATY INTERPRETATION (Oxford University Press 2d ed., 2015)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

Part II Interpretation Applying the Vienna Convention on the Law of Treaties, A The General Rule, 7 The General Rule: (3) Relevant Rules of International Law and Special Meanings

From: Treaty Interpretation (2nd Edition)
Richard Gardiner

Previous Edition (1 ed.)

Content type: Book content
Product: Oxford Scholarly Authorities on International Law [OSAIL]
Series: Oxford International Law Library
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Subject(s):

Rules of treaty interpretation — Authority of previous decisions (precedents) — Treaties, scope (temporal and territorial)

> new standards given proper weight, not only when States contemplate new activities but also when continuing with activities begun in the past. This need to reconcile economic development with protection of the environment is aptly expressed in the concept of sustainable development …[157]

5. Special Meanings

5.1 Introduction

The notion of a special meaning includes two distinct categories. One is the meaning which a term has in a particular area of human endeavour; the other is a particular meaning given by someone using a term that differs from the more common meaning or meanings. The former is essentially an ordinary meaning in the particular context. It may be a term of art, but the context leaves no room for doubt once the term is recognized as such. Terms in the second category require some indication from the user that their meaning differs from the expected one.

The Vienna rules cover both situations; but courts and tribunals do not always make it clear whether they are considering a meaning that is 'ordinary' in the particular context or 'special' because the intention of the user to give the term a particular meaning is apparent. Article 31(4) of the Vienna Convention is most apt to cover the second category, referring to what the parties intended, though it is broad enough to cover the first if it has not already been taken into account under paragraph (1) of the article.

Article 31(4) presents two main issues: first, in what circumstances is reliance to be placed on this provision if investigating a particular meaning of a term in a treaty, and, second, how is the intention of the parties to be identified?

(p. 335) 5.2 History and preparatory work

The first formulation of the Vienna rules, in the Third Report of the Special Rapporteur (Waldock), envisaged giving a meaning to a term of a treaty other than its natural and ordinary meaning 'if it is established conclusively that the parties employed the term in the treaty with that special meaning'.[158] Further provision was made for reference to 'other evidence or indications of the intentions of the parties and, in particular, to the preparatory work of the treaty, the circumstances surrounding its conclusion and the subsequent practice of parties' in order to establish such special meaning.[159]

There was little debate in the ILC on these drafts. When the provision on special meanings was consolidated into a separate draft article, the commentary recorded that some members of the ILC doubted the need to include provision on this point, noting that 'technical or special use of the term normally appears from the context and the technical or special meaning becomes, as it were, the ordinary meaning in the particular context' (the first category of special meaning suggested above).[160] The main reason given in favour of including a specific provision on the point was to emphasize that the burden of proof lies on the party invoking the special meaning of the term, and the strictness of the proof required.[161] This concern reflected the stress laid on this point in the two cases mentioned in the commentary.[162]

On separation into a distinct draft article, the provision on special meanings lost its link with preparatory work as a source of evidence. The Special Rapporteur (Waldock), responding to a comment by a state, explained the proposed transfer of the provision to the first draft article on interpretation in a way which introduced some uncertainty into what had been an explicit reference to use of preparatory work as a possible source of evidence of a special meaning:

> The establishment of a 'special meaning' is not one of the purposes for which article 70 admits recourse to *travaux préparatoires,* and unless the 'special meaning' rule is made part of article 69, means of interpretation necessary to establish a special meaning may appear to be excluded.[163]

While this indicates that the primary means of establishing a special meaning was now to be application of the general rule of interpretation, the reference to (p. 336) establishment of a special meaning not being a purpose of the provision on recourse to preparatory work may reasonably be taken as meaning that such establishment was not a purpose separate from those of confirming or determining the meaning in the specified circumstances.

There was not very much debate about how a special meaning would be established. One view was that, given the requirements that the proponent of a special meaning had the burden of proving it, 'there should be no need to resort to auxiliary means of interpretation in order to establish that special meaning'.[164] The Special Rapporteur (Waldock) gave his own opinion that 'where a special meaning could be established by special evidence, it was very probable that that meaning would appear in the context of the treaty'.[165] To the suggestion that a provision on special meanings was unnecessary because any special meaning given by the parties to a term would be an ordinary meaning in the context of the treaty, he responded that 'that proposition was too subtle to be understood by many of those who would be likely to interpret treaties' and that the proposed provision was therefore necessary.[166]

In a manner that is rather more typical of treaty negotiations than deliberations of a group of experts, the question how it could be established, without recourse to the further means of interpretation, that the parties intended a term to have a special meaning was left to the drafting committee.[167] When the draft emerged, the debate was about where the provision should be placed, without objection to the assumption of the initiator of the discussion who had suggested:

> … it might be better if paragraph 4 were placed immediately after paragraph 1; that would show the process of interpretation more clearly. Paragraph 4 provided that a special meaning should be given to a term if it was established that the parties so intended. How was that intention to be established? Presumably by the rules of interpretation set out in paragraphs 2 and 3, and in article 70 [ultimately incorporated into article 32]. The purpose of interpretation was to ascertain which of several ordinary meanings was the one intended or whether a special meaning was given to a term.[168]

The hesitant inclusion of a place for the provision on special meanings at the end of the general rule was effectively endorsed by the vote to accept the drafting committee's proposal on this after the observation that:

> Paragraph 4, on the other hand, dealt with a minor point which was of limited application; in fact, the Drafting Committee had even considered dropping that provision altogether. It would therefore detract from the importance of paragraph 1 if the contents of paragraph 4 were incorporated in it or placed immediately after it as a new paragraph 2. Such a change would also have the disadvantage of breaking the continuity of the [general rule] …[169]

(p. 337) Thus the outcome of the work of the ILC was to change the original idea of a special meaning derived principally from evidence of the intention of the parties, in particular by reference to the preparatory work, to one which was centred on the primary means of interpretation. This would leave as the most obvious cases of special meanings those in a treaty's definition provision, elsewhere in the context, or in any of the instruments identified by application of the rest of the general rule.[170] But it also leaves an

uncertain impression over the extent to which supplementary means can be invoked as support for a special meaning. Applying the Vienna rules, this would only be permissible within an interpretative exercise justifying reliance on supplementary means by reference to article 32. However, such an exercise would envisage recourse to preparatory work 'to confirm' any meaning that emerged in the course of interpretation without any prerequisite of finding ambiguity. Hence if good evidence of an intended special meaning were produced from preparatory work, this could trigger reassessment of the meaning reached by application of the general rule.[171]

As a footnote to the preparatory work of article 31(4), one member of the ILC gave his view that the reference to 'the parties' whose intention was to establish a special meaning should be understood as meaning the parties which had participated in the authentication of the treaty, not in its conclusion.[172] However, article 2(1)(g) of the Vienna Convention defines a party as a state 'which has consented to be bound by the treaty and for which the treaty is in force'. There seems no ground to displace such a clear definition by reference to a single view expressed in the preparatory work, particularly as any consensus on a special meaning recorded in the preparatory work would be admissible if the circumstances envisaged in article 32 arose.[173]

5.3 Issues and practice

5.3.1 Special meaning and ordinary meaning distinguished

Selection of a particular meaning from a range of possible meanings by reference to the context may lead to a particular sense being mandated by the subject matter—for example, where a word is a term of art.[174] This is the thought expressed by some members of the ILC (considered in section 5.1 above). There appears, however, to be a reluctance on the part of courts and tribunals to class a meaning (p. 338) as 'special' if there is any way it can be justified as 'ordinary'. The ILC Special Rapporteur (Waldock) noted that 'in most cases in which a special meaning of a term had been pleaded, the tribunals appeared to have rejected the special meaning'.[175] In *Witold Litwa v Poland* the ECHR preferred to use an extended meaning of 'alcoholics' to include drinkers who are not addicted, rather than accept Poland's argument that the parties had intended a special meaning.[176] In *Georgia v Russian Federation* Russia had argued that the term 'dispute' should be given a special meaning derived from the context of provisions distinguishing a 'matter, 'complaints', and 'disputes', the latter being alleged to mean only matters or complaints which had proceeded through the stages stipulated by the treaty for a dispute to crystallize.[177] However, the ICJ declined to ascribe a narrower interpretation than usually given to the word as generally understood and as used in comparable compromissory clauses in treaties drawn up around the same time as the one in issue.[178]

It is probably of no great consequence whether an interpreter finds the route to the appropriate meaning through an understanding of what is an 'ordinary' meaning or whether such a meaning is viewed as 'special'. Provided the interpreter uses all appropriate evidence to evaluate the probable meanings the correct result should be ascertainable.

5.3.2 Burden of establishing a special meaning

That the burden falls on the party urging a special meaning is clear; but which party this is in given circumstances may not always be incontestable. In the frontier dispute between El Salvador and Honduras (with Nicaragua intervening), one of the several provisions in the special agreement listing issues for the ICJ to decide invited the Court 'to determine the legal situation of the … maritime spaces'.[179] There was disagreement between the parties whether or not this empowered the Court (which heard the case as a Chamber rather than the full court) to delimit a maritime boundary. 'Delimitation' of areas is a well-recognized term for entrusting to international courts and tribunals jurisdiction to mark out boundaries or frontiers. It was the term that had been used in the present case in relation to land

frontiers. In contrast, ‘determining the legal situation’ could have meant something different. El Salvador claimed that the relevant waters were subject to a condominium in favour of the three coastal states of the Gulf of Fonseca. Legal status of an area is different from its extent. One of the arguments put by Honduras was that the constitution of El Salvador did not permit delimitation of the waters of (p. 339) the Gulf, that the different wording was to accommodate these sensibilities, and that it was for the Court to decide whether the status of the waters left it open to it to make a delimitation. The majority of the chamber of the ICJ construed the issue as putting an evidential burden on Honduras:

> In essence, it is arguing that a special meaning—one comprising the concept of delimitation—was intended by the Parties to attach to the phrase ‘determine the legal situation of the … maritime spaces’. The onus is therefore on Honduras to establish that such was the case.[180]

The Chamber found that to accept the contention of Honduras would be to accept that the parties were not in complete agreement over jurisdiction, which it must therefore lack on this issue.[181] Judge Torres Bernárdez, dissenting on this point, started with analysis of the Spanish term *determinar* for ‘determine’ in the phrase 'determine the legal situation. He found that this word could convey the idea of setting limits, hence delimitation.[182] The majority had also regarded this as a possible meaning if the word was taken in isolation, but the context and construction of the sentence had made it clear that what was being determined was the legal situation, not the limits, of the waters.[183] In contrast, Judge Torres Bernárdez considered that once it was admitted that delimit could be an ordinary meaning of *determinar*, the onus fell on El Salvador to establish, as a special meaning, that it excluded delimitation.[184]

This example may be unusual in that neither party appears to have advanced a particular special meaning which it could be required to establish. It suggests that there may remain an unresolved issue whether article 31(4) offers a further way, within the general rule, of selecting from a range of ordinary meanings or whether it is really to be viewed as a particular rule to be brought into play when a meaning at odds with the normal processes for selection of an ordinary meaning is being advanced.

5.3.3 Evidence required to establish a special meaning

In recommending inclusion of a provision on special meanings, Waldock noted that the PCIJ ‘had decided that evidence of the special meaning to be attached to a term was admissible but that the burden of proof was upon the party desiring to establish that special meaning’.[185] He said that ‘he personally thought that where a special meaning could be established by special evidence, it was very probable that that meaning would appear in the context of the treaty’.[186] The most common way in which a special meaning is indicated is by including a definition article in a treaty. Beyond that there is little practice showing clearly what would amount to the necessary ‘special evidence’. If no definition is provided it is a matter of assessing the intent of the parties in the light of the available evidence.

(p. 340) A good example of the contrasting situations is given in the *Roma Rights* case (UK House of Lords) concerning the Convention Relating to the Status of Refugees, Geneva, 1951 and its 1967 Protocol:

> It is also noteworthy that article 31(4) of the Vienna Convention requires a special meaning to be given to a term if it is established that the parties so intended. That rule is pertinent, first, because the [Geneva] Convention gives a special, defined, meaning to ‘refugee’ and, secondly, because the parties have made plain that

> '*refouler*', whatever its wider dictionary definition, is in this context to be understood as meaning 'return'.[187]

With regard to the second of these special meanings, it would not normally be the case that a special meaning is to be linked with the treaty in one language only unless the meaning is in doubt and the treaty specifies that that language is to prevail.[188] In the present case, however, the Convention itself provided evidence of how the English and French understanding of the special meaning were to be aligned by including the French term in the English title and text of article 33: 'Prohibition of expulsion or return ("refoulement") … No contracting state shall expel or return ("refouler") a refugee …'. Lord Bingham put it this way:

> … the French verb refouler and the French noun refoulement are, in article 33, the subject of a stipulative definition: they must be understood as having the meaning of the English verb and noun 'return'.[189]

Where material is generally regarded as providing an authoritative interpretation of a treaty, it seems plausible to accept from it a special meaning.[190] Where a special meaning is recorded in the preparatory work, its effect on interpretation is probably no different from that of other statements or declarations in preparatory work, but confirmation of this is not readily found.

(p. 341) 5.3.4 Special meanings and special regimes

It does not follow that because a rule or regime may be correctly characterized as a *lex specialis* terms in a treaty establishing the rule or regime are to be viewed as having a special meaning. This is apparent from the opinion of Lord Steyn in *Mullen*.[191] Where a conviction was set aside because the accused had been brought before the court by unjust means rather than because his guilt was in doubt, was he entitled to compensation under legislation giving effect to article 14(6) on 'miscarriage of justice' in the International Covenant on Civil and Political Rights 1966? Lord Steyn considered that the Court of Appeal had erred in relying on what had been described there as 'the ordinary use of English' and in concluding that because the phrase 'miscarriage of justice' was wide enough to cover the circumstances of the case (ie where the guilt of the claimant was not in doubt but he should not have been unlawfully deported to stand trial in England), the Covenant required compensation to be paid. Lord Steyn stressed that what was relevant was 'the autonomous meaning of the concept in article 14(6)' of the Covenant.[192] He considered that 'the obvious and sensible construction is that article 14(6) is a lex specialis' to be read in the context of the treaty (which did not require that a particular meaning be imputed to it in the light of the presumption of innocence in article 14(2)).[193] It can be seen that this is not to attribute a special meaning to 'miscarriage of justice', but simply acknowledges that the term is to be interpreted in the sense of the Covenant, rather than as it might be in English law.

In line with the freedom inherent in the right of states to draw up their treaties as they wish, states (and international organizations) may include their own rules of interpretation. It is also possible to see the principle underlying recognition that parties may attribute a special meaning to a term that they use as supporting the possibility that parties to a treaty may include special interpretative principles which differ from those in the Vienna rules, or which place a different weight on one or more of the elements of interpretation, a possibility which is also consistent with choosing the arbiters of interpretation. This freedom is confirmed by the practice of states in their treaty making. There do not, however, appear to be examples of wholesale displacement of the Vienna rules.

A prominent example of a particular rule of interpretation in a treaty is article 22(2) of the Rome Statute of the International Criminal Court (2002):

> The definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.[194]

(p. 342) It can readily be seen that inclusion of such a provision in a treaty dealing with international criminal law properly provides a special rule appropriate to the subject matter, rather than a wholesale replacement of the Vienna rules which are of a general character and, in the interpretation of the Rome Statute, would apply to article 22 taking account of the context as an element of the general rule.[195] This is consistent with the principle that general provisions do not derogate from special ones.[196]

A more general interpretative provision may be included in a treaty circumscribing the interpretative role of an arbitral tribunal. For example, in the Indus Waters arbitration the treaty included in an annexure providing for a Court of Arbitration:

> Except as the Parties may otherwise agree, the law to be applied by the Court shall be this Treaty and, whenever necessary for its interpretation or application, but only to the extent necessary for that purpose, the following in the order in which they are listed:
>
> (a) International conventions establishing rules which are expressly recognized by the Parties.
>
> (b) Customary international law. [197]

Such a provision clearly attempts to limit recourse to extraneous application of international rules, perhaps to counter wide-ranging approaches such as those criticized above in the ICJ's *Oil Platforms* case.[198] In the *Indus Waters* case, the Court followed the Vienna rules applicable as customary law but took care in following its mandate on applicable law as quoted above.[199]

6. Conclusions

The origins of article 31(3)(c) in attempts to incorporate the intertemporal rule into the rules of interpretation became obscured as the provision was pared down to its somewhat opaque final version. To the extent that the provision can bring (p. 343) into play obligations of international law which have arisen after conclusion of the treaty, the time element is still present; but use of this calls for fine judgement in assessing whether the proper interpretation is that the treaty is one which envisaged interpretation in the light of the circumstances at the time of its conclusion or, having been drawn up to endure and adapt, requires account to be taken of later developments.

More specifically, roles for the rule in article 31(3)(c) may include:

(a) resolving time issues (including application of the intertemporal law);

(b) completing the legal picture, or filling gaps, in a treaty by reference to general international law;

(c) deriving guidance from other treaty provisions;

(d) resolving conflicting obligations arising under different treaties;

(e) taking account of international law developments.

Annex 73

Jutta Brunnée, *Harm Prevention*, in THE OXFORD HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW (Lavanya Rajamani & Jacqueline Peel, eds., 2d ed. 2021)

Part III Conceptual Pillars, Ch.16 Harm Prevention

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(p. 269) Chapter 16 Harm Prevention

I. Introduction

International environmental law originates from and revolves around the harm prevention rule. As a practical matter, it is difficult to argue with the proposition that the prevention of harm should be the primary objective of international environmental law. However, it is important to appreciate that the harm prevention rule finds its conceptual origins not in the protection of the environment, but in the mutual limitation of sovereign rights to the use and enjoyment of territory. Only gradually did its focus expand from transboundary interferences to impacts on areas beyond the jurisdiction of states, and from harm to sovereign rights to harm to the environment. And yet, state-centrism constrains the operation of the harm prevention rule to this day. Furthermore, notwithstanding the rule's status as general international law and its centrality in the field, ambiguities and conceptual puzzles obscure its apparently straightforward message.

In this chapter, I focus on three points of contention, each related to the role of due diligence in harm prevention, and each highlighted by recent judicial engagements with the harm prevention rule. First, it is generally accepted that a state's obligation to prevent environmental harm is not absolute, but requires due diligence in the face of risk of significant harm. However, it is unclear whether a failure to act diligently to avert harm on its own—absent actual harm—can amount to a breach of the harm prevention rule. Second, the relationship between the procedural and substantive dimensions of the harm prevention rule remains ambiguous. Third, there is some uncertainty as to where the line runs between the harm prevention obligation and the precautionary principle, given the focus of both notions on risk.

As I will go on to show, these inter-related conceptual questions affect the harm prevention rule's function as a reference point for international environmental law. For example, whether or not a breach of the rule presupposes causation of significant harm has important implications for both the application of the law of state responsibility and the rule's potential as a basis for recourse to judicial processes. In turn, the harm prevention (p. 270) rule's due diligence nature and its transboundary impact focus help illuminate the emergence, and distinctive features, of treaty-based approaches to regional and global environmental concerns.

In exploring the development and traits of the harm prevention rule, I show that, notwithstanding the conceptual puzzles, the harm prevention rule is the normative cornerstone of international environmental law, both customary and treaty-based.

II. Conceptual Questions

A. Status as General International Law

Commentators generally trace the harm prevention rule in international environmental law back to the 1941 arbitral award in the *Trail Smelter* case. The tribunal held that:

> ... no State has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence.[1]

The *Trail Smelter* award marked the first time that an international tribunal articulated the harm prevention rule in relation to transboundary pollution.[2] In so doing, the tribunal built upon broader principles pertaining to a state's duty 'to respect other States and their territory',[3] and upon earlier arbitral awards that had confirmed states' attendant duties.[4] These duties, in turn, harken back to the conceptual necessity of balancing between the rights of sovereign equals,[5] as well as to principles such as *sic (p. 271) utere tuo ut alienum non laedas* (use your own property in such a manner as not to injure that of another), abuse of rights, and good neighbourliness.[6]

Today, it is beyond doubt that the harm prevention rule is binding under general international law. The International Court of Justice (ICJ) first engaged with states' duties to protect within their territories the rights of other states in the *Corfu Channel* case.[7] However, only in 1996, in *Legality of the Threat or Use of Nuclear Weapons*, did the court confirm that the harm prevention rule is 'part of the international law relating to the environment', and applicable to environmental impacts both in other states and in 'areas beyond the limits of national jurisdiction'.[8] The ICJ reiterated this conclusion in the *Gabčíkovo-Nagymaros* case,[9] the *Pulp Mills* case,[10] and in the *Costa Rica v Nicaragua*/*Nicaragua v Costa Rica* cases.[11]

The affirmation of the harm prevention rule by the ICJ followed the accelerating development of international environmental law that began in the 1970s. The perhaps most influential restatement of the rule is found in Principle 21 of the 1972 Stockholm Declaration on the Human Environment. It stipulates that states have 'the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction'.[12] The phrasing of Principle 21, reaffirmed in the 1992 Rio Declaration on Environment and Development,[13] and in a series of multilateral environmental agreements (MEAs),[14] highlighted that harm prevention duties extend also to global commons.[15] Furthermore, although Principle 21 did not stipulate a particular threshold (p. 272) of harm, it is accepted today that the rule focuses on 'significant' harm—harm that is more than 'detectable', but not necessarily 'serious' or 'substantial'.[16] According to the ICJ, the 'principle of prevention, as a customary rule, has its origins in the due diligence required of a State in its territory'.[17] It is difficult to overstate the importance of the harm prevention rule's status as a rule of general international law, such that *all* states are required to avert significant transboundary environmental harm, wherever it may occur. Equally important is the rule's due diligence nature, to the implications of which I turn below.

Before I do, I should note that I deliberately speak of the 'harm prevention' rule throughout this discussion. Some commentators argue that an older 'no harm' rule, focused on assigning responsibility for harm, came to be complemented by a harm prevention principle specific to international environmental law.[18] To be sure, the older cases, including the *Trail Smelter* case, revolved around instances of actual harm, prompting much of the early scholarly debate to focus on questions of state responsibility.[19] Nonetheless, as I suggest below, the older case law bears out that the 'no harm' rule always implied a duty to act diligently to prevent harm from occurring in the first place. Over time, as environmental problems became more pressing and the need for proactive approaches better understood, this preventive dimension assumed increasing importance in the environmental context. The harm prevention rule in international environmental law thus represents a shift in emphasis, not a rule that is separate from a 'no harm' rule.[20] This is not to say that the general rule and the one that operates in international environmental law are identical. The

most significant difference is the focus of the latter on *environmental* harm, including in particular harm to areas beyond state jurisdiction.[21]

(p. 273) B. The Role of Due Diligence

1. Harm prevention and the due diligence standard

When the ICJ, in its *Pulp Mills* decision, held that the harm prevention rule is intertwined with 'the due diligence required of a State in its territory',[22] it confirmed a long-standing view in the international environmental law literature.[23] The *Trail Smelter* decision did not explicitly address the standard of conduct required in harm prevention,[24] nor did the Stockholm and Rio Declarations several decades later.[25] However, as we have seen, these articulations of the environmental harm prevention duty built on broader principles that encumber territorial sovereignty.[26] It is directly relevant, therefore, that in the *Corfu Channel* case, the ICJ confirmed that states' general duty to avert harm to the rights of other states was not absolute, but contingent on what they knew or should have known about risks emanating from their territories.[27] The court considered this proposition to be a 'general and well-recognized principle'.[28] And, indeed, the idea that states owe one another not harm prevention as such but due diligence had already found expression in earlier cases revolving around duties in relation to potentially harmful conduct by various actors within a state's territory.[29] The fact that the potentially harmful conduct frequently is not state conduct but conduct of private actors within a state's territory is, of course, one of the defining traits of international environmental law.[30] In more than one sense, then, a consistent line runs from these early cases to the *Pulp Mills* ruling, where the ICJ invoked precisely its decision in the *Corfu Channel* case to anchor the environmental harm prevention rule in the due diligence incumbent upon states under general international law.

In *Pulp Mills*, as well as in its subsequent decision in the *Costa Rica v Nicaragua*/*Nicaragua v Costa Rica* cases, the ICJ expanded on what due diligence requires of states (p. 274) in the harm prevention context. According to the court, states are 'obliged to use all the means at [their] disposal in order to avoid' transboundary harm from activities occurring in their territories or under their jurisdiction'.[31] More specifically, due diligence 'entails not only the adoption of appropriate rules and measures, but also a certain level of vigilance in their enforcement and the exercise of administrative control applicable to public and private operators, such as the monitoring of activities undertaken by such operators'.[32] In other words, due diligence has substantive as well as procedural aspects. Due diligence is also an inherently contextual standard. What is reasonable and appropriate depends in part on the risks of harm that attach to a given activity. The required level of care may also change over time, as risks or technological and regulatory standards evolve, and may differ as between economically and technologically advanced countries and countries with capacity limitations.[33]

The International Law Commission's (ILC) 2001 Draft Articles on Prevention of Transboundary Harm from Hazardous Activities constitute the most detailed effort to date to tease out the implications of the harm prevention rule and its attendant due diligence requirements.[34] The Draft Articles underscore the role of due diligence in 'the phase prior to the situation where significant harm … might actually occur'.[35] They also highlight a crucially important point that follows from the very idea of harm prevention: the attendant due diligence obligations are triggered not by significant harm, but when activities entail a risk of such harm.[36] The ICJ appears to agree. In *Costa Rica v Nicaragua*/*Nicaragua v Costa Rica*, the court observed that 'to fulfil its obligation to exercise due diligence in preventing significant transboundary environmental harm, a State must, before embarking on an

activity having the potential adversely to affect the environment of another State, ascertain if there is a risk of significant transboundary harm'.[37]

2. Procedure and substance

International environmental lawyers, and textbooks in the field, routinely distinguish between 'substantive' and 'procedural' obligations.[38] Substantive rules set out standards that states' actions or conduct must meet, the obligation to prevent serious transboundary environmental harm being one example. Procedural obligations include the duties to notify, warn, inform, or consult states potentially affected by transboundary (p. 275) impacts, and to undertake (transboundary) environmental impact assessments (EIA).[39] The ICJ, in its *Pulp Mills* and *Costa Rica v Nicaragua*/*Nicaragua v Costa Rica* decisions, followed this categorization, in each case beginning the assessment of state conduct in relation to procedural obligations and then turning to substance.[40]

In teaching and writing about international environmental law over the years, I had always proceeded from the premise that, legally, these procedural obligations are both an element of the harm prevention duty and independent of it as customary rules in their own right.[41] This conclusion seemed obvious, because states do not owe an absolute duty to prevent significant transboundary environmental harm, but a duty to take diligent measures to avoid such harm. Thus, in addition to taking appropriate regulatory and policy measures, states must undertake EIAs and notify, inform, or consult with potentially affected states, as the case may be. In short, while due diligence is 'substantive' in the sense that it functions as the standard of conduct of the harm prevention rule, it actually gives rise to substantive and procedural requirements. The ICJ says as much in *Pulp Mills*, not only tracing the harm prevention rule back to the due diligence required of states, but also confirming that due diligence entails substantive and procedural duties.[42] The court makes the point perhaps most explicitly in *Costa Rica v Nicaragua*/*Nicaragua v Costa Rica*, when it observes in relation to EIA that:

> [T]o fulfil its obligation to exercise due diligence in preventing significant transboundary environmental harm, a State must, before embarking on an activity having the potential adversely to affect the environment of another State, ascertain if there is a risk of significant transboundary harm, which would trigger the requirement to carry out an environmental impact assessment.[43]

Yet, notwithstanding its conclusion that a state would not act diligently if it failed to take the appropriate procedural steps, the ICJ proceeded to hold in both *Pulp Mills* and *Costa Rica v Nicaragua*/*Nicaragua v Costa Rica* that, absent actual transboundary harm, no substantive breach had occurred.[44] The court has been roundly criticized in the literature for this approach to the harm prevention rule.[45] Indeed, strongly worded (p. 276) separate opinions in both decisions reveal that the court itself was divided on the issue, and on the relationship between the procedural and substantive aspects of the harm prevention rule.[46]

One could read the court's decisions in the two cases as illustrating that the connections between procedure and substance, and the core notion of due diligence, are far less settled than one might have assumed.[47] One might go further, however, and conclude that the court's approach sidesteps the full implications of the harm prevention rule in international environmental law.[48] After all, it is not primarily an obligation not to cause harm, but an obligation to take diligent steps to prevent harm. It is, in other words, an obligation of conduct.[49] As such, whether harm results or not, the rule is violated when a state's conduct falls short of what due diligence requires. Furthermore, this result should obtain even if the due diligence failures are procedural in nature.[50] While it may seem counterintuitive at first glance to suggest that a procedural failure might suffice to breach a substantive obligation, this is precisely what the harm prevention rule entails. This result is entirely consistent with the importance of prevention in environmental protection and, in turn, with the crucial role

that procedural duties play in enabling harm prevention.[51] These duties are central to the shift in international environmental law from the older, relatively amorphous, 'negative' duty to avoid harm to the modern 'positive' duty to take concrete steps to protect the environment.[52]

3. Prevention and precaution

A third area of ambiguity revolves around the boundary between the harm prevention rule and the precautionary principle. Notionally, the harm prevention rule applies when a risk of significant harm is foreseeable. By contrast, the precautionary principle is triggered even when there is some uncertainty as to the existence of a risk of serious or irreversible harm.[53] But in practice, and even conceptually, it is difficult to draw a clear (p. 277) line between prevention and precaution. For example, in defining the risk that triggers the harm prevention rule, the ILC's Draft Articles on Prevention stipulate a range from 'a high probability of causing significant transboundary harm' to 'a low probability of causing disastrous transboundary harm'.[54] In its commentary, the ILC observes that the duty to act diligently in harm prevention 'could involve … such measures as are appropriate by way of abundant caution, even if full scientific certainty does not exist, to avoid or prevent serious or irreversible damage'.[55] In so doing, the ILC invokes the most common formulation of the precautionary principle, found in Principle 15 of the Rio Declaration.[56]

The 2011 Advisory Opinion of the Seabed Chamber of the International Tribunal on the Law of the Sea (ITLOS) on *Responsibilities in the Area* appears to build on the ILC's approach and locates the ultimately fluid line between prevention and precaution in the notion of due diligence.[57] The ITLOS Chamber emphasizes the contextual nature of the due diligence standard, which it considers may differ inter alia in light of the risks involved in a given activity.[58] The implication is that due diligence provides a bridge between the duty to prevent environmental harm and the proposition that, even in the absence of 'full scientific certainty', states must take precautionary measures to 'prevent environmental degradation'.[59] According to the Chamber, 'the precautionary approach is … an integral part of the general obligation of due diligence'.[60] The due diligence obligation, which requires states 'to take all appropriate measures to prevent damage', therefore 'applies in situations where scientific evidence concerning the scope and potential negative impact of the activity in question is insufficient but where there are plausible indications of potential risks'.[61] The Chamber concludes that a state 'would not meet its obligation of due diligence if it disregarded those risks'.[62]

While this perspective seems sensible in many respects, it remains to be seen whether its fluid approach to prevention and precaution, in addition to finding the support of expert bodies,[63] will be more widely embraced in international practice. The perhaps most significant implication of this approach to prevention and precaution is the increased importance that it accords to procedural obligations, including in particular EIA obligations, and the lowering of thresholds that it entails for the triggering of these obligations. The ICJ has remained cautious. It did not pick up on the approach, let alone (p. 278) the ITLOS Chamber's Advisory Opinion, in its discussion in *Costa Rica v Nicaragua*/*Nicaragua v Costa Rica* of due diligence and of the risk threshold necessary to trigger the EIA obligation.[64]

III. The Harm Prevention Rule as a Reference Point for International Environmental Law

The conceptual questions explored in Section II shape the harm prevention rule's implications for the functioning of international environmental law. For example, whether or not a breach of the rule presupposes causation of harm affects the application of the law of state responsibility and the recourse to judicial processes. In turn, the harm prevention rule's due diligence nature and its enduring transboundary impact focus provide a frame of

reference for the distinctive features of treaty-based approaches to international environmental concerns.

A. The Law of State Responsibility

The law of state responsibility is triggered by breaches of a rule of international law.[65] In international environmental law, recourse to the law of state responsibility is most likely to follow from a breach of the harm prevention rule or one of the associated procedural obligations. That is because the harm prevention rule is uncontested as a rule of general international law, such that any state that is exposed to a risk of significant transboundary harm that emanates from activities in another state can invoke the rule against that state.[66] The attendant procedural obligations will tend to play a central role in this context. They are relevant in assessing whether the state in question made diligent efforts to prevent transboundary harm. Furthermore, it is likely to be considerably easier to establish that required procedural steps were not taken than it would be to show that regulatory or oversight measures were inadequate. It is not surprising, therefore, that the recent ICJ cases on transboundary environmental impacts revolved around the harm prevention rule and, more specifically, the attendant procedural requirements, such as EIA, notification, and consultation.

(p. 279) At first glance, one might assume that state responsibility for a breach of the harm prevention rule would presuppose proof of the causation of significant transboundary environmental harm, making it a legal long shot. Indeed, it could be quite difficult to establish the causal links between activities in one state and particular harm in another, especially when the states concerned are not immediate neighbours. But, as suggested in Section II.B.2, successful invocation of the harm prevention rule does not in fact require proof of actual or future harm.[67] Since the harm prevention rule is not an obligation of result but rather an obligation of conduct, a breach occurs when the relevant state's conduct falls short of what due diligence required.[68] Hence, a plaintiff state must establish a risk of significant transboundary harm and show that the other state failed to take the preventive steps appropriate in light of that risk. In other words, the harm prevention rule and the related procedural obligations are potentially powerful legal tools. They can help ensure that states take the concrete steps that transboundary harm prevention requires in practice.

Furthermore, the harm prevention rule could be consequential even in relation to complex problems such as climate change.[69] In invoking the rule, an island or coastal state would not need to show a causal link between another state's emissions and actual or imminent damage to it from sea level rise. It would need to show risk and lack of diligent preventive measures.[70] Using the ILC's risk spectrum from 'high probability of significant harm' to 'low probability of disastrous harm' as a yardstick,[71] it should not be difficult to establish the requisite risk. Indeed, we now live in a world of high probability of disastrous climate harm,[72] certainly as far as small island nations are concerned.

What would be gained by deploying the law of state responsibility in this way? Perhaps counterintuitively, the primary objective of this approach would not be compensation for harm, but confirmation and concretization of what diligence requires of states in the context of climate change.[73] The consequences that the law of state responsibility would attach to a breach of the harm prevention rule explain why. Only if a state (p. 280) can show that another state's lack of diligent preventive action resulted in the specific harm it suffers would compensation be a possible remedy.[74] By contrast, the most likely legal consequence of a failure to exercise diligence, absent proof of harm, would be the obligation to cease the internationally wrongful act, and thus to comply with the duty to take appropriate preventive measures.[75] Given the difficulties of establishing causation, for the purposes of general international law, the development of more specific criteria for climate diligence,

therefore, may well be the most valuable result of an invocation of the law of state responsibility.[76]

Lest I be accused of undue optimism as to the potential of the harm prevention rule, a few caveats are in order. First, so far the ICJ has been unwilling to fully embrace the preventive logic of the harm rule.[77] The *Pulp Mills* and *Costa Rica v Nicaragua/Nicaragua v Costa Rica* decisions suggest that the ICJ distinguishes between the duty to take diligent steps to *prevent* significant transboundary harm, which it then deals with under the rubric of separate procedural obligations, and the duty to take diligent steps not to *cause* harm, which it considers cannot be violated simply by a failure to act diligently.[78] It appears, then, as if the ICJ considers significant harm to be an element of the primary rule, rather than a factor that is relevant in determining the legal consequences of and remedies for a breach. Second, the flipside of the proposition that harm prevention entails a duty to act diligently is that, even when significant harm results, the rule will not be violated as long as a state can show that it has exercised due diligence.[79] Third, to date, the harm prevention rule at custom has been deployed only in cases involving immediately neighbouring states. Although the notion of transboundary harm prevention should encompass any inter-state situation,[80] it has not been invoked in relation to risks of long-range or diffuse impacts.[81] The least developed part of the harm prevention rule concerns impacts beyond the jurisdiction of states. Yes, states are obligated to prevent harm to areas beyond national jurisdiction, but is that obligation owed *erga omnes*, such that 'all States can be held to have a legal interest' in compliance with it?[82] Clear state practice in relation to the commons dimension of the harm prevention rule is lacking. The ILC's Draft Articles on Prevention, for their part, are explicitly limited to (p. 281) 'harm caused in the territory of or in other places under the jurisdiction or control of a State other than the State of origin'.[83]

B. Judicial Processes

When it comes to the avenues for giving legal effect to international environmental protection goals, states must contend not only with the parameters provided by the harm prevention rule and the law of state responsibility, but also with the procedural rules that constrain recourse to international courts and tribunals. For present purposes, suffice it to focus on the ICJ as a court of general jurisdiction. Contentious cases are contingent on the consent of the states concerned.[84] So far, this precondition has been met primarily in cases involving neighbouring states, accounting for the ICJ's case law on the harm prevention rule. In line with the uncertainties surrounding the *erga omnes* effect of the harm prevention rule, the ICJ has not pronounced itself on that aspect of the rule. It remains unclear, therefore, whether and under what circumstances a state would have standing under general international law to invoke the harm prevention rule in relation to risks to or impacts on a commons.[85]

Some commentators rightly suggest that, outside of the transboundary context narrowly conceived, an Advisory Opinion may be a more promising option for deploying the harm prevention rule, giving the ICJ an opportunity to 'perform its most important role … , namely to clarify and elaborate the relevant norms of general international law'.[86] Standing issues would not arise in this context, and it would be possible to frame the question put to the court in such a way as to sidestep the question of the role of harm in the primary rule, and the need to prove causation. The focus could be squarely on what the harm prevention rule requires of states, including what due diligence entails in relation to global issues such as climate change. But the route to an Advisory Opinion is constrained by its own procedural requirements. Specifically, the request for an Advisory Opinion must be made by an organ of the United Nations,[87] most commonly the General Assembly. While it has been possible to carefully craft questions so as to secure the required majority of votes even for highly contentious issues, the ICJ has not yet the opportunity to offer an Advisory Opinion squarely focused on the harm prevention rule.[88] An initiative by Palau to ask the court to

opine on states' legal responsibility to ensure that any activities on their territory that emit greenhouse gases do not harm other (p. 282) states was abandoned in the face of resistance from key countries.[89] It is worth noting that Palau had framed the proposed question in terms of the inter-state aspect of the harm prevention rule, not the commons aspect, a choice that underscores the enduringly state-centric practice relating to the rule.

C. Treaty-Based Approaches

So far, I have made the case that the harm prevention rule is not only the core rule of customary international environmental law, but also provides a potentially promising legal tool-kit for states in curbing transboundary environmental impacts. But for all its potential, today's complex regional and global environmental problems exceed the capacity of the rule. Multifaceted collective action challenges that implicate multiple states with widely ranging priorities and capabilities cannot be solved on the basis of a rule that remains predominantly focused on inter-state impacts. Furthermore, notwithstanding the importance of the due diligence standard as a background rule of conduct in general international law, such an open-textured standard cannot support the finely calibrated responses required to deal with large-scale problems like long-range transboundary air pollution, ozone depletion, or climate change. The parameters of the harm prevention rule illustrate, therefore, why treaty-based approaches were needed to address the vast majority of international environmental concerns today. It is in this sense that the harm prevention rule provides a reference point not only for general international law, but also for MEAs.

Treaty-based approaches typically invoke the harm prevention rule in general international law as a background norm,[90] but also provide tailored substantive and procedural duties to advance parties' collective harm prevention goals. For example, MEAs can enshrine specific information gathering, risk assessment, information exchange, and consultative duties.[91] These procedural requirements, which elaborate upon states' procedural obligations under general international law, help prepare the ground for and further develop substantive standard setting. While, at customary law, much of the substance of harm prevention is furnished by the requirements that flow from the due diligence standard, in the treaty context dedicated procedures exist for the elaboration of highly specific substantive standards.[92] For the most part, the substantive standards generated under the auspices of MEAs, such as emission standards or reduction targets, provide obligations of result.[93] Thus, whether or not a party acted diligently in meeting (p. 283) the standard will be irrelevant in assessing its compliance with its commitments. Finally, MEAs can also provide for mechanisms that are animated by the collective interest of all treaty parties in promoting the widest possible compliance with treaty commitments.[94] The enforcement of the harm prevention rule at customary law, by virtue of the parameters and constraints explored in the preceding sections, is bound to be highly selective. By contrast, treaty-based compliance mechanisms can be designed with a view to systematic performance assessment, while also enabling accommodation of and assistance to states with capacity limitations.

IV. Conclusion

The harm prevention rule is the normative cornerstone of international environmental law. It serves as a reference point for international environmental law in a number of interrelated ways. First, it is the point of origin of international environmental law. Second, notwithstanding the ambiguities that obscure its full preventive potential, the harm prevention rule is central to the normative structure of customary international environmental law. It provides the yardstick for a range of procedural obligations, whether these are understood as independently existing rules of customary law or as anchored in the rule's due diligence standard. Third, the harm prevention rule should be understood as an obligation of conduct that requires states to exercise due diligence in the face of risks of significant transboundary environmental harm. Fourth, conceiving of the rule in this way

reveals that it provides a potentially strong basis for the invocation of the law of state responsibility and recourse to international courts and tribunals, at least in the context of inter-state impacts. Fifth, the potential of the harm prevention rule is more limited in relation to environmental harm beyond the limits of national jurisdiction and in the context of complex, polycentric environmental problems. Finally, the harm prevention rule has nonetheless served as a baseline for multilateral approaches to international environmental protection, and its inherent constraints help illuminate many of the key features of contemporary environmental agreements.

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Footnotes:

1 *Trail Smelter Arbitration (United States/Canada)* (1938 and 1941) 3 RIAA 1905 (Trail Smelter case) 1965.

2 See eg Leslie-Anne Duvic-Paoli, *The Prevention Principle in International Environmental Law* (CUP 2018) 146–147; Duncan French, 'Trail Smelter (United States of America/ Canada) (1938 and 1941)' in Eirik Bjorge and Cameron Miles (eds), *Landmark Cases in Public International Law* (Hart Publishing 2017) 159, 159–160; Timothy Stephens, *International Courts and Environmental Protection* (CUP 2009) 123.

3 See Trail Smelter case (n 1) 1963.

4 See *Alabama claims of the United States of America against Great Britain* (Award rendered on 14 September 1872 by the tribunal of arbitration established by Article I of the Treaty of Washington of 8 May 1871) 29 RIAA 125 (Alabama Arbitration). This is referred to in Trail Smelter case (n 1); see also *British Property in Spanish Morocco (Spain/UK)* (1925) 2 RIAA 615 (British property case); *Island of Palmas Case (The Netherlands/US)* (1928) 2 RIAA 829.

5 See eg Günther Handl, 'Territorial Sovereignty and the Problem of Transnational Pollution' *American Journal of International Law*, 69/1 (1975): 50, 56.

6 See Duvic-Paoli (n 2) 16–17; Jelena Bäumler, *Das Schädigungsverbot im Völkerrecht* (Springer Verlag 2017) 18–21.

7 *Corfu Channel case (UK/Albania)* (Judgement) [1949] ICJ Rep 4 (Corfu Channel case).

8 *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion) [1996] ICJ Rep 226 (Legality of Nuclear Weapons case) 242.

9 *The Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* (Judgement) [1997] ICJ Rep 7 (Gabčíkovo-Nagymaros case) 41.

10 *Pulp Mills on the River Uruguay (Argentina/Uruguay)* (Judgement) [2010] ICJ Rep 14 (Pulp Mills case) 55–56, 78.

11 *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica/Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua/Costa Rica)* (Judgement) [2015] ICJ Rep 665 (Certain Activities case) 705–707.

12 United Nations, 'Report of the United Nations Conference on the Human Environment' (5-16 June 1972) UN Doc A/CONF.48/14/Rev.1, 3, ch 1—'Declaration of the United Nations Conference on the Human Environment'.

13 *Report of the United Nations Conference on Environment and Development* (UN 1993) vol I, annex I, principle 2. Principle 2 here restates principle 21 of Stockholm Declaration, but clarifies that states have the right to exploit their resources 'pursuant to their own environmental *and developmental* policies' (emphasis added).

14 See Malgosia Fitzmaurice, 'Legitimacy of International Environmental Law—The Sovereign States Overwhelmed by Obligations: Responsibility to React to Problems Beyond National Jurisdiction?' *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 77/2 (2017): 339, 342.

15 Patricia Birnie, Alan Boyle, and Catherine Redgwell, *International Law and the Environment* (3rd edn, OUP 2009) 145 (speaking of obligations that, in this context, operate *erga omnes*).

16 See 'Report of the International Law Commission on the work of its fifty-third session' (2001) UN Doc A/56/10, ch V.E—'Draft articles on prevention of transboundary harm from hazardous activities' 148, 152; Pulp Mills case (n 10) 83; Certain Activities case (n 11) 706–707, 720; Ulrich Beyerlin and Thilo Marauhn, *International Environmental Law* (Hart Publishing 2011) 41.

17 Pulp Mills case (n 10) 55–56; Certain Activities case (n 11) (invoking, in both cases, its judgement in the *Corfu Channel* case).

18 See Duvic-Paoli (n 2) 21–24, ch 2; Leslie-Anne Duvic-Paoli and Jorge Viñuales, 'Principle 2: Prevention' in Jorge Viñuales (ed), *The Rio Declaration on Environment and Development: A Commentary* (OUP 2015) 108; Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, CUP 2018) 206–213 (distinguishing a 'responsibility not to cause and environmental damage' and a 'principle of preventive action').

19 But see also Alan Boyle, 'State Responsibility and International Liability for Injurious Consequences of Acts Not Prohibited by International Law: A Necessary Distinction?' *International and Comparative Law Quarterly*, 39/1 (1990): 1, 18 (noting that the *Trail Smelter* case too had a preventive dimension, focused on 'the control and regulation of the future operation of the smelter').

20 See also Alexander Proelβ, 'Prinzipien des Internationalen Umweltrechts' in Alexander Proelβ (ed), *Internationales Umweltrecht* (De Gruyter 2017) 69, 83; Birnie *et al* (n 15) 143–150; Benoît Mayer, *The International Law of Climate Change* (CUP 2018) 67–69.

21 Note that in the Trail Smelter case (n 1) the focus was still squarely on 'injury … in or the territory of another [state] or the properties or persons therein'.

22 Pulp Mills case (n 10).

23 See eg Kerryn Anne Brent, 'The Certain Activities Case: What Implications for the No-Harm Rule?' *Asia Pacific Journal of Environmental Law*, 20/1 (2017): 28, 34; Beyerlin and Marauhn (n 16) 42; Günther Handl, 'Transboundary Impacts' in Daniel Bodansky, Jutta Brunnée, and Ellen Hey (eds), *The Oxford Handbook of International Environmental Law* (1st edn, OUP 2008) 531, 538; Birnie *et al* (n 15) 143, 217–219.

24 See French (n 2) 172–175.

25 But see eg *Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area* (Advisory Opinion) [2011] ITLOS Rep 10 (Responsibilities in the Area case) [110]–[112] (noting that obligations 'to ensure' in international law tend to be understood as due diligence obligations).

26 See nn 3–6 and accompanying text.

27 Corfu Channel case (n 7) 22.

28 Ibid.

29 See eg Alabama Arbitration (n 4); British property case (n 4) 644–645; see discussion in Awalou Ouedraogo, 'La due diligence en droit international: de la règle de la neutralité au principe général' *Revue générale de droit*, 42/2 (2012): 641, 645–646.

30 See Daniel Bodansky, Jutta Brunnée, and Ellen Hey, 'International Environmental Law: Mapping the Field' in Bodansky *et al*, *Handbook of IEL* (n 23) 1, 6–7.

31 Pulp Mills case (n 10) 55–56.

32 Ibid, 79.

33 See ILC draft articles on prevention (n 16) 154–155, commentary to art 3, paras 11, 17; Responsibilities in the Area case (n 25) [117]; Birnie *et al* (n 15) 148–149.

34 ILC draft articles on prevention (n 16).

35 Ibid, 148, general commentary, para 1.

36 Ibid, 149, 155 (arts 1–3). For a discussion, see Birnie *et al* (n 15) 143–152.

37 Certain Activities case (n 11) 706.

38 See eg Pierre-Marie Dupuy and Jorge Viñuales, *International Environmental Law* (1st edn, CUP 2015) 54; Beyerlin and Marauhn (n 16) 41–45; Birnie *et al* (n 15) 137, 164–184.

39 See Jutta Brunnée, 'Procedure and Substance in International Environmental Law: Confused at a Higher Level?' *ESIL Reflections*, 5/6 (2016) <http://esil-sedi.eu/?p=1344> accessed 22 February 2019.

40 See Pulp Mills case (n 10) ss III ('The Alleged Breach of Procedural Obligations'); IV ('Substantive Obligations'); Certain Activities case (n 11) 705–710 (procedural obligations), 710–712 (substantive obligations), 719–726 (procedural obligations), 726–737 (substantive obligations).

41 See also Birnie *et al* (n 15) 141, 147–150.

42 Pulp Mills case (n 10) 79.

43 Certain Activities case (n 11) 706–707 (going on to note that, should an EIA confirm there is a risk of significant transboundary harm, 'the State planning to undertake the activity *is required*, *in conformity with its due diligence obligation, to notify and consult in good faith with the potentially affected State*') (all emphases added).

44 See Pulp Mills case (n 10) 101; Certain Activities case (n 11) 736–737.

45 See eg Proelβ (n 20) 83; Sandrine Maljean-Dubois and Vanessa Richard, 'The International Court of Justice's Judgement of 20 April 2010 in the Pulp Mills on the River Uruguay (Argentina v. Uruguay) case' in Paula Almeida and Jean-Marc Sorel (eds), *Latin America and the International Court of Justice: Contributions to International Law* (Routledge 2017) 309.

46 See eg Pulp Mills case (n 10) (Joint Dissenting Opinion Al-Khasawneh & Simma) 120 (regretting that the ICJ missed an 'opportunity to clarify the relationship between procedural and substantive obligations'); and see Certain Activities case (n 11) (Separate Opinion of Judge Donoghue) [9] (noting that 'a failure to exercise due diligence to prevent significant transboundary harm can engage the responsibility of the State of origin even in the absence of material damage to potentially affected States').

47 See Brunnée, 'Procedure and Substance' (n 39).

48 See also Brent (n 23) 56.

49 See also Responsibilities in the Area case (n 25) [110]; Certain Activities case (n 11) (Separate Opinion of Judge Donoghue) [9]; ILC draft articles on prevention (n 16) 154; Birnie *et al* (n 15) 143; Proelβ (n 20) 77; Pierre-Marie Dupuy, 'Reviewing the Difficulties of Codification: On Ago's Classification of Obligations of Means and Obligations of Result in Relation to State Responsibility' *European Journal of International Law*, 10/2 (1999): 375, 379.

50 See also Birnie *et al* (n 15) 177.

51 See also Maljean-Dubois and Richard (n 45).

52 See also French (n 2) 181.

53 See Duvic-Paoli (n 2) 265–266.

54 ILC draft articles on prevention (n 16) art 2(a).

55 Ibid, 155, commentary on art 3, para 14.

56 Ibid; and see Rio Declaration (n 13) principle 15.

57 Responsibilities in the Area case (n 25) [116].

58 Ibid [117].

59 See Rio Declaration (n 13) principle 15.

60 Responsibilities in the Area case (n 25) [131].

61 Ibid.

62 Ibid.

63 See eg International Law Association (ILA), 'Report of the seventy-fifth conference held at Washington' (2014) 22, 'ILA Legal Principles relating to Climate Change', principles 7A, 7B; commentary (supporting the approach).

64 See Certain Activities case (n 11) 705–707, 719–722.

65 'Report of the International Law Commission on the work of its fifty-third session' (2001) UN Doc A/56/10, ch IV.E—'Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries', arts 1, 2.

66 See ibid, art 42 (on invocation of responsibility).

67 See nn 36, 49, and accompanying text.

68 See ILC draft articles on prevention (n 16) 154 (‘It is the conduct of the State of origin that will determine whether the State has complied with its [due diligence] obligation’); see also Dupuy, ‘Reviewing the Difficulties of Codification’ (n 49); Ilias Plakokefalos, ‘Prevention Obligations in International Environmental Law’ (2012) *Yearbook of International Environmental Law*, 23/1 (2012): 3, 31–32.

69 See Jutta Brunnée, ‘International Environmental Law and Community Interests: Procedural Aspects’ in Eyal Benvenisti and Georg Nolte (eds), *Community Interests Across International Law* (OUP 2018) 151; Brent (n 23) 29–30.

70 See Daniel Bodansky, Jutta Brunnée, and Lavanya Rajamani, *International Climate Change Law* (OUP 2017) 45, 48–49.

71 ILC draft articles on prevention (n 16) art 2(a).

72 See Intergovernmental Panel on Climate Change (IPCC), *Global warming of 1.5°C—Special Report* (2018) Summary for Policymakers.

73 Bodansky *et al*, *ICCL* (n 70); René Lefeber, ‘Climate Change and State Responsibility’ in Rosemary Rayfuse and Shirley Scott (eds), *International Law in the Era of Climate Change* (Edward Elgar 2012) 321, 341.

74 See generally Sands and Peel (n 18) 749–750.

75 See Lefeber (n 73); Philippe Sands, ‘Climate Change and the Rule of Law: Adjudicating the Future in International Law’ *Journal of Environmental Law*, 28/1 (2016): 19, 31.

76 See also Daniel Bodansky, ‘The Role of the International Court of Justice in Addressing Climate Change: Some Preliminary Reflections’ *Arizona State Law Journal* 49/3 (2017) 689, 709, 712.

77 See also Brent (n 23) 56.

78 Brunnée, ‘Procedure and Substance’ (n 39).

79 See Bodansky *et al*, *ICCL* (n 70) 45–46.

80 See ILC draft articles on prevention (n 16) 152, art 2(c).

81 However, Legality of Nuclear Weapons case (n 8) did involve such a context, suggesting that the harm prevention rule could be invoked by affected states in comparable circumstances.

82 *Barcelona Traction, Light and Power Company, Limited (Belgium/Spain) (New Application: 1962)* (Judgement) [1970] ICJ Rep 3 [33]; but see also [91] (requiring a concrete treaty mechanism to provide standing). For a discussion, see Bodansky *et al*, *ICCL* (n 70) 49–51.

83 ILC draft articles on prevention (n 16) art 2(c).

84 ICJ Statute, art 36.

85 See Brunnée, ‘Community Interests’ (n 69) 161–162.

86 See Bodansky, ‘Role of ICJ’ (n 76) 712; Sands (n 75).

87 UN Charter, art 96; see also art 18.3 (requiring a majority vote).

88 In the context of Legality of Nuclear Weapons case (n 8) the harm prevention rule was relevant only as one of several considerations that might constrain the legality of states’ recourse to nuclear weapons.

89 See Aaron Korman and Giselle Barcia, 'Rethinking Climate Change: Towards an International Court of Justice Advisory Opinion' *Yale Journal of International Law Online*, 37 (Spring 2012): 35; Stuart Beck and Elizabeth Burleson, 'Inside the System, Outside the Box: Palau's Pursuit of Climate Justice and Security at the United Nations' *Transnational Environmental Law* 3/1 (2014): 17, 26.

90 See Fitzmaurice (n 14).

91 See Brunnée, 'Community Interests' (n 69) 167–168.

92 Ibid, 168–170.

93 See eg Bodansky *et al*, *ICCL* (n 70) 172 (commenting on obligations of result in the Kyoto Protocol); Mayer (n 20) 115. But note also that the Paris Agreement, to the extent that it does provide substantive requirements, casts them as obligations of conduct. See Christina Voigt, 'The Paris Agreement: What is the Standard of Conduct for Parties?' *Questions of International Law, Zoom-In*, *26* (24 March 2016): 20.

94 See Brunnée, 'Community Interests' (n 69) 170–172.

Annex 75

Oksana Polishuk, *Feel the Difference: Who Ukraine Gives to Free From Captivity*, Ukrinform (27 December 2019)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Ukrinform

Multimedia foreign broadcasting platform of Ukraine

[...]

To bring its captured compatriots home, Ukraine is forced to give up real terrorists and child murderers to the enemy. But is there any other way out?

We believe December 29th will be a holiday, at least for several dozen Ukrainian families: their relatives and loved ones, who spent anywhere from a year to almost six years in captivity with the occupiers and their henchmen, will return home. A large-scale prisoner swap is expected to take place at the Mayorske checkpoint at 11:00 AM on Sunday. This time, however, the Kremlin does not plan to return to us the Ukrainians being held as political prisoners at pre-trial detention centers and prisons in Russia and annexed Crimea. The exact number of people to be included in the exchange lists has not been specified. The initial figure was put at nearly 300 prisoners, which was then reduced to "a little more than 200." The parameters of the likely exchange were later refined further: 80 to 130 (Donetsk/Kyiv 55/65, Luhansk/Kyiv 25/65).

Many experts, politicians, journalists and social media users, in anticipation of the exchange, have written about how unfair it is: after all, Ukraine will get back people who defended their country against the enemy in accordance with the Constitution and international law – people who accidentally fell into the net set up by the FSB and its branches in the so-called "republics" and who faced trumped-up charges that were "pulled out of thin air." In exchange, we will give back to the enemy actual terrorists, criminal murderers and treacherous traitors… "Russia wants to take back its own people: child murderers, executioners of the unarmed, terrorists, traitors – all of the filth of the 'Russian world' that has become the 'Russian hell' in Donbas. A name-by-name comparison of the exchange lists is a comparison of two different worlds: the world of Russian devils and the world of human beings," writes the editor-in-chief of Tsenzor.net, **Yury Butusov**. And this is true. But we need to understand: Ukraine is doing this for the sake of freeing its citizens. Proponents of this step cite the example of the exchange of Israeli corporal Gilad Shalit, whom Israel rescued from captivity by releasing over a thousand jailed Palestinians with links to terrorism.

So what do we know about our compatriots who may be returning home as early as this Sunday, and about the individuals Ukraine will be handing over to Putin and his henchmen in return? We have analyzed some information from open sources.

WHO WE ARE GIVING UP: TERRORISTS, CHILD MURDERERS, AND "EX-BERKUT"

[...]

Viktor Skripnik,
resident of Mariupol, born 1987.
Arrested

Evgeny Druzhinin,
resident of Mariupol, born 1975, nickname “Lis" [“Fox”]
Arrested

Aleksandr Strelnikovich,
resident of Mariupol, born 1992
Arrested

[...]

3. Kharkiv terrorists

On February 22, 2015, a homemade bomb filled with shrapnel was remotely detonated during the March of Dignity in Kharkiv. Four people were killed in the explosion, including a police officer and a minor, and nine more were wounded. Kharkiv Euromaidan leader Ihor Tolmachov and police officer Vadym Rybalchenko died on the spot. Fifteen-year-old student Danylo Didyk succumbed to his wounds on February 23, followed by 18-year-old student Mykola Melnychuk on February 24. Most participants in the march were saved by a Gazel truck that happened to be standing between the mine and the crowd.

Volodymyr Dvornikov, Viktor Tetyutskyi and Serhiy Bashlykov were later arrested. According to law-enforcement officers, the men were members of the Kharkiv Partisans, an underground terrorist group. The terrorists had been recruited by the Russian special services and had been trained in Belgorod. They were supposed to receive $10,000 for carrying out the terrorist act.

They were supposed to be sentenced in the Frunzenskyi District Court of Kharkiv on December 28.

Earlier, relatives of those killed in the terrorist act, together with civil activists, held rallies outside the Office of the President in Kyiv and several times in Kharkiv against the possibility of swapping the accused (with Russia).

[...]

6. An actual Russian prisoner. For example.

According to various sources, among those whom the Ukrainian side plans to hand over to the enemy is Russian tank operator Ruslan Gadzhiev. He was captured during the battle for altitude 307.5 outside Sanzharivka in the Donetsk Region. Eight Ukrainian defenders were killed at the time, and two more were gravely wounded, leaving them disabled. Ukrainian infantry soldiers were able

to repel the attack by four enemy tanks. Three armored vehicles were destroyed and one was damaged. Gadzhiev was the only crew member of the damaged tanks to survive.

[...]

The contract soldier was sentenced to 15 years in prison.

According to informed sources, the exchange lists include several other Russian contract soldiers who were captured at one time or another in Donbas, as well as Ukrainian citizens who fought on the side of the Luhansk/Donetsk People's Republics.

[...]

Annex 76

Ukrinform, *The Prosecution Explained Why People Sentenced for a Terrorist Act in Kharkiv Were Released* (28 December 2019)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

[...]

The release from custody of three men convicted of the 2015 terrorist act near the Kharkiv Palace of Sports, where four people died and nine others were injured, was done as part of Ukraine's fulfillment of its international obligations.

This is how prosecutor Volodymyr Lymar commented on the situation after the verdict was announced, Ukrinform's correspondent reports.

"This is very disappointing, but it is the only way Ukraine can fulfill its international obligations," the prosecutor said.

According to him, life imprisonment with confiscation of property was the legal verdict handed down in Ukraine.

"The convicted men – Viktor Tetyutskyi, Serhiy Bashlykov, and Volodymyr Dvornikov – should serve out their punishments in Ukraine. If there are circumstances where this possibility arises, they will be taken into custody," Lymar said.

Read also: *Court considers appeal of ex-Berkut officers*

According to him, the three convicts were at Kharkiv's Pre-Trial Detention Center when the verdict was announced. "It was done by video conference at their request," the prosecutor explained.

As for the exchange, the prosecutor said he does not know the terms of the exchange or who is in charge of it.

Meanwhile, Oleh Holovkov, the attorney representing the victims, told Ukrinform's correspondent that the relatives of those who were killed in the terrorist act by the Palace of Sports agree with the life sentence for the accused but intend to appeal the court's decision to replace detention in custody with personal recognizance. "This is not a legal decision but a political one. The victims are ready to appeal it through the Ukrainian courts and abroad. There are also questions about compensation for the victims – specifically, who is going to pay it now?"

As Ukrinform previously reported, the Frunzenskyi District Court of Kharkiv on December 28 announced a life sentence with confiscation of property for the three men accused of committing the terrorist act outside the Palace of Sports on February 22, 2015 – Viktor Tetyutskyi, Serhiy Bashlykov, and Volodymyr Dvornikov. The court simultaneously replaced detention in custody with personal recognizance.

On December 26, during oral arguments in the Frunzenskyi District Court of Kharkiv, Prosecutor Volodymyr Lymar asked the court to release the accused for an exchange with the Russian Federation, as he said a relevant agreement had been reached during the Normandy Format talks. The prosecutor also filed a motion to replace the suspects' pre-trial restriction in the form of detention in custody with personal recognizance pending the verdict's entry into force.

On February 22, 2015, during a march to commemorate the heroes of the Heavenly Hundred, there was an explosion, later designated a terrorist act. Four people died in the attack, and nine others were wounded.

On February 26, 2015, the SBU arrested three Kharkiv residents on suspicion of carrying out the terrorist act: Volodymyr Dvornikov, Viktor Tetyutskyi, and Serhiy Bashlykov. All three were charged under Article 258(3) (terrorist act) and Article 263(1) (illegal possession of weapons) of the Criminal Code of Ukraine. According to the law-enforcement agencies, they had been recruited by the Russian special services, had received training in Belgorod, and were supposed to receive $10,000 for the terrorist act.

[...]

Annex 77

Hanna Sokolova, *Terrorist Attack During the "March of Dignity" in Kharkiv. How Three Defendants Were Sentenced to Life Sentence and Immediately Released*, Grati (29 December 2019)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Terrorist attack during the Dignity March in Kharkiv. Three defendants were given life sentences and were immediately released

December 29, 2019, 1:36 P.M. Ganna Sokolova

"Guerrillas who acted alone"

In April 2015, the case was filed with the court. During the very first meeting, when the prosecutor announced the indictment, Dvornikov, Tetyutsky... and published the results of covert investigative steps, listening to Dvornikov's communication while in jail when he told about his crime to his cellmate. In April 2017, due to the changes in the court panel, the case was re-initiated.

In the court, after the defendants withdrew their initial testimonies, they began to claim that it is possible that Ukrainian intelligence services were involvement in the terrorist attack. "How could the terrorists possibly know when and where to plant a bomb and when to detonate it, if the activists themselves weren't aware where they would be marching, near the Shevchenko Monument, or near the Palace of Sports, or whether they would hold it at all. Only the intelligence community could have had this information and they were following this event, said Vladimir Dvornikov in a hearing held this October. - To confirm the involvement in this...

why the taxi car, which was standing in front of the place where the bomb was planted, didn't raise any interest for the SBU investigators?

Having analyzed the chronology of events, it becomes obvious that everything possible was done to commit this terrorist attack no matter what. And this is beyond the capabilities of any guerrillas acting alone."

In October, the prosecutor Volodymyr Lymar has announced the indictment again. Preparation details for the terrorist attack were added to it, however, the charges for the crime were unchanged. Dvornikov, Tetyutsky, and Bashlykov are accused of crimes under Part 3, Article 258, and Part 1, Article 263 of the Criminal Code: a criminal conspiracy to commit a terrorist attack by a group of individuals, which caused death, and possession of explosives and ammunition. The maximum penalty under these articles is life imprisonment.

"Abuse of power"

Back in 2015, Volodymyr Dvornikov, Viktor Tetyutsky, and Serhiy Bashlykov filed complaints about being tortured by the prosecutor Volodymyr Lymar and SBU investigators. The court opened criminal proceedings under the articles "abuse of power or official authority by a law enforcement officer" and "violation of the right to mount a defense." This May, the court has ruled to deny the claim but the defendants appealed the ruling in November. The complaint was sent for reconsideration to the military prosecutor's office.

"No exchange without a sentence"

In late September, the defendants' attorneys announced that they think their clients could be released in the next prisoner exchange.

"It is a fact that such matter was raised and there were attempts to include them. Who are in the lists right now? Nobody knows that, said Dmitry Tikhonenkov to reporters, who was still defending Viktor Tetyutsky at that time. - There is a high probability, let's put it this way, that this could happen". Vladimir Dvornikov's attorney, Igor Nagorny, has confirmed that all three defendants are included in the exchange lists.

Kharkiv Court of Appeals. They demanded that the accused shouldn't be released until sentenced. Activists were chanting the slogan "Sentences to terrorists" and they left tires and a broken matryoshka doll near the courtroom door as a symbol of the Russia's footprint in this case.

Since early October, activists have started to attend court hearings more often, confirmed one of the action organizers, Valentyn Bystrychenko. They would came with national flags and posters: "Terrorists are a threat to everyone", "No exchange without sentences" and "Unpunished evil returns." At one of the hearings, activists glued stickers to the floor of the court corridor demanding "Sentences to terrorists".

"Terrorists must be sentenced before they can be exchanged," Valentin Bystrychenko told to Graty. - Those who commit crimes while acting as a part of pro-Russian terrorist groups in Donbass should also be aware that they will subsequently pay for any crime. We are here to support this viewpoint."

Relatives of the victims are also awaiting sentences and they do not support the exchange until a court verdict. "They (the accused) were not very good people in the past, they were ready to commit a crime for money. And I think that the four and a half years spent in a detention center did not make them better workers. Therefore, once they are released, they would be the type ready to be used by the FSB. Who can guarantee they wouldn't do it again?" , said Andriy Didyk, the father of 15-year-old Danylo who died during the terrorist attack.

During one of the hearings, Tetyutsky replied: "Nobody offered me anything, even theoretically." "What kind of exchange are we talking about, if we really are innocent? To exchange one prison for another? What are you talking about? - Sergiy Bashlykov was fuming.

"Filed as a matter of principle"

The next hearing on December 26 began with the prosecutor's announcement regarding the closure of the torture case where Dvornikov, Tetyutky, and Bashlykov were named victims. The judge asked the accused to testify but Serhiy Bashlykov wanted to complete his motions. The accused took a marker from his backpack and began to draw dots and arrows on the wall of the glass holding area. The judge, who couldn't figure out what he was doing, asked him "to stop acting for the media."

The sentence announcement took more than two hours. Volodymyr Dvornikov, Viktor Tetyutsky, and Sergiy Bashlykov were not brought to the court. They were present by video conference. The court found them guilty of a criminal conspiracy to commit a terrorist attack by a group of individuals, which caused death, and possessing explosives and ammunition. They were sentenced to life imprisonment with their property seized. The court also has granted civil claims brought by the victims. They were granted awards ranging from 100 thousand to two million hryvnias.
At the same time, Dvornikov, Tetyutsky, and Bashlykov were released from the detention center to take part in the exchange. A spokesman for the victims, Oleg Golovkov, said that he would appeal this decision. "We believe this is a political ruling and it's not based on law in any way. Let me remind you that Ukraine has no international treaties signed under the Normandy format, Golovkov told to reporters. "If we cannot find grounds within our national judicial system, we will turn to the international system."

Annex 78

Novynarnia, *"Separam – Freedom": Whom Ukraine Released to ORDLO at the Big Exchange in 2019 List* (30 December 2019)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

2/15/22, 5:07 PM
"Separatists get off scot-free": who was released to the Occupied Territories by Ukraine in the big 2019 exchange. LIST

Russia and the Occupied Territories do not disclose the names of 123 people who were released from Ukraine during the exchange on December 29. However, some of these people, according to "Novynarnya", and there are already more than 60 of them, can be identified from reports published by the media, lawyers, and social media users.
According to Valentin Rybin, a pro-Russian lawyer who defends separatists, terrorists, and Russian mercenaries in Ukraine, "there are no more political prisoners in Ukraine."
Partial lists of people released to DNR/LNR militants in this exchange were published by the website Myrotvorets, journalist Yuriy Butusov, Channel 24, and others.
"Based on the list of those who were demanded by Russia, it becomes absolutely clear who is behind all these terrible terrorist attacks and crimes. This is what Russia has taken responsibility for, he wrote on Facebook on December 30.

//

Three residents in Kharkiv from Anti-Maidan, who were found guilty in court for a terrorist attack--blowing up those who took part in a Ukrainian rally on February 22, 2015 in Kharkiv near the Palace of Sport. Four people were killed in that terrorist attack: Danylo Didik, 15, Mykola Melnychuk, 18, Ihor Tolmachov, and Vadym Rybalchenko.

Tetyutsky, Bashlykov, and Dvornikov were involved in clashes on February 18, 2014 in Kyiv, in the Mariyinsky Park area, where peaceful Maidan demonstrators were beaten.

They met each other at a hospital in Kharkiv and contacted Russian intelligence. They have detonated the MON-100 fragmentation mine.

A unique case: Frunze District Court in Kharkiv has sentenced the terrorists, Dvornikov, Tetyutsky, and Bashlykov, to life imprisonment pursuant to Article 263, Part 1 (illegal use of weapons) and Article 258, Part 3 (terrorist attack) of the Criminal Code of Ukraine. However, given the exchange planned by the country leadership, the court has immediately changed its pre-trial restrictions from no bail to personal recognizance.

//

Ruslan Dzhupalovych Gadzhyev, a citizen of the Russian Federation, born in the village Levokumske, Stavropol Krai, Russia, on February 10, 1973. Tank crewman, driver.
Came to Donbass on December 23, 2014 and joined the August battalion, which was part of the illegal armed groups of the so-called Luhansk People's Republic.

//

Murat Dzhimiyev

A Russian from North Ossetia. DOB 11.01.1966

According to Media Initiative for Human Rights, he was detained due to involvement in the so-called Ossetian Terrorists case. They were accused of plotting a terrorist attack during the protest outside of Verkhovna Rada, in the fall of 2017: the accused allegedly acted at the behest of Russian intelligence and were supposed to bring 10 bottles of poisoned vodka to the tent camp of activists."

Vladyslav Dolgosheya
Ruslan Dolgosheya
Mykola Kazansky
Kostyantyn Kalashnikov
Oleg Mazur
Mykola Selyatenko
Vadym Shved

//

Oleg Doronin

A citizen of Russia from Nizhnevartovsk. Reconnaissance man from the 1st Cossack Regiment of the 2nd Corps of the Southern Military District of the Armed Forces of the Russian Federation ("LPR").

He has a criminal record in Russia. He tried to enlist in the Russian Armed Forces but employees of Khanty-Mansiysk Military Enlistment Office explained to him that, with a criminal record, he can't get a service contract until he serves in the occupying forces in Donbas.

//

Valery Kirsanov

A resident of Mariupol, DOB August 24, 1975. A mercenary for the FSB of the Russian Federation, an accomplice of the DNR militants. The call sign is "Traffic Cop." A former employee of the Ministry of Internal Affairs of Ukraine.

Kirsanov has been providing the militants information about the locations of Ukrainian soldiers, which the gangs used for artillery shelling.

On January 24, 2015, Kirsanov was a forward observer to spot the occupiers' Grad volleys when shelling Mariupol. At that time, missiles hit residential and other buildings in the Eastern neighborhood. 31 people were killed and 117 were injured.

According to the verdict, firearms, ammunition, and explosives were found and seized during a search of the residence of the accused.

In court, Kirsanov stated that he is not guilty of the charges against him. He also claimed that the prosecutor has failed to prove his involvement with DNR, terrorist organizations or his contacts with any illegal groups.

On June 18, 2019, the Primorsky District Court of Mariupol, Donetsk Province, has found that Kirsanov is guilty of spotting the shelling of the Eastern district and sentenced him to nine years in prison.

He served one half of his term and was released on August 15, 2019 under the Savchenko Law.

When he released, Mariupol residents threw paint at him and brought a coffin there.

//

Maryna Kovtun

Maryna Kovtun in court. Photo: UA: Kharkiv

DOB June 3, 1967. Sentenced by a trial court to 11 years of incarceration for her complicity in the terrorist attack on the Stina pub in Kharkiv, on November 2014, and for illegal use of weapons. An appeal is pending in this case.

The explosion in the rock pub Stina on Rymarska Street in Kharkiv took place on November 9, 2014 at about 10:00 P.M. The attackers detonated a magnet-actuated plastique bomb near the bar. 13 people were injured in that event.

The pub was just collecting aid for the Azov Volunteer Battalion.

On November 17, 2014, the SBU announced that the case was solved and 12 people were detained, who were part of a sabotage/reconnaissance group operating in Kharkiv and its province. They were involved in the Stina pub explosion. That's when Kovtun was detained.

Kalashnikov assault rifles, ammunition, grenades, detonators, booby-trap kits, and seven anti-personnel mines with Russian manufacturing marks were seized from them.

In 2015, the majority of those who were suspects in the explosion were included in the exchange with the Occupied Territories and were released. At the request of the Security Service of Ukraine and the provincial prosecutor, Kovtun was left at a detention center.

The indictment against her was filed with the court on June 12, 2015. In July 2018, due to a dismissal of the presiding judge, a new panel of judges began a new trial.

When the case was sent to the court, the former provincial prosecutor Yuriy Danilchenko described the investigation file as follows: “Ms. Kovtun is a native of Russia. The investigators have determined that she was actively involved in pro-Russian rallies in Kharkiv in the spring of 2014. Later in August she underwent training in propaganda, at first. In the fall, she went through special training in mines/explosions, tactical operations, special medical training in Russia, and she became a member of a terrorist organization called Kharkiv Guerrillas... She commanded one of the units. The investigators have clear proof that it was she who brought the mine to Stina pub, activated it, and gave it directly to the person who brought the mine into the pub”.

The accused pleaded not guilty and demanded a full acquittal.

A panel of judges chaired by Viktor Popras has been reading the verdict for more than four hours. The court has found Maryna Kovtun guilty under Part 1, Article 263 (unlawful use of weapons, ammunition or explosives) and Part 5, Article 27, 258 (complicity in terrorist attack) of the Criminal Code of Ukraine. Therefore, the accused was sentenced to 11 years of imprisonment and property forfeiture.
The court has also granted civil claims brought by the victims for more than half a million hryvnias.

At the same time, the court has dismissed some charges brought against the accused, that is Article 110 (encroachment on territorial integrity and inviolability of Ukraine), Article 258-3 (creation of a terror group or terror organization), and Article 113 (sabotage) of the Criminal Code of Ukraine.

In addition to the explosion at the pub Stina, Maryna Kovtun was also accused of involvement in other explosions: the collector of the Malyshev plant and [the explosion] near Britannia restaurant. In these incidents, the court has found that Kovtun's guilt was not proven.

Kovtun filed an appeal in the Stina case.

//

Vasyl Kusakin

A Russian mercenary from Yakutsk, DOB March 29, 1976

A militant from the unlawful militant group Typhoon (DNR).

On August 11, 2017, Novomoskovsk Court in Dnipropetrovsk Province sentenced him to 8 years in prison under Article 258 (terrorism).

//

Shamil Muliyev
A Russian mercenary from DNR, a sniper. DOB 20.05.1965. From Kazan.

He was involved in the assaults on Debaltsevo, in February 2015.

//
Sergiy Petrov (?)
A Russian mercenary, call sign "Phase". DOB 11.04.1973. From Chelyabinsk. A retired captain of the Ministry of Internal Affairs of Russia. He took part in the Chechen war.
In Ukraine, he fought in a sabotage group of LNR. A military retiree. He took part in the battles for Savur-Mohyla, in June 2014.
Three years ago he was detained by the Security Service of Ukraine.

//

Mykola Pokusayev

A Russian mercenary from DNR, DOB June 2, 1970, born in the village Bankino, Weidelovsky County, Belgorod Province of Russia.

He was detained by servicemen of the 57th Motorized Infantry Brigade of the Armed Forces of Ukraine on March 2, 2018, when he somehow crossed the demarcation line and wandered around in the area of Pisky.

In 2018, he was sentenced to four years in prison.

//

Maxym Slyvko

A Russian mercenary, DOB December 3, 1973.

He was arrested on September 3, 2015 in Kyiv in the case of the so-called Obolon Terrorists. He was charged under Article 258, Part 2 and Article 263, Part 1 of the Criminal Code of Ukraine.

According to police, he was preparing a terrorist attack in Kyiv. Slyvka was caught along with three other accomplices. One of them was also a Russian citizen. During their detention, they detonated a grenade.

Annex 80

Sun-Tzu, *The Art of Warfare* (Roger Ames, 1993)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.

SUN-TZU
THE ART OF WARFARE

THE FIRST
ENGLISH TRANSLATION
INCORPORATING
THE RECENTLY DISCOVERED
YIN-CH'ÜEH-SHAN TEXTS

TRANSLATED,
WITH AN INTRODUCTION AND
COMMENTARY, BY
ROGER T. AMES

ROBERT G. HENRICKS,
SERIES EDITOR

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10

CHAPTER 2: ON WAGING BATTLE

Master Sun said:

The art of warfare is this:[120]

For an army of one thousand fast four-horse chariots, one thousand four-horse leather-covered wagons, and one hundred thousand armor-clad troops, and for the provisioning of this army over a distance of a thousand *li*,[121] what with expenses at home and on the field, including foreign envoys and advisors, materials such as glue and lacquer, and the maintenance of chariots and armor, only when you have in hand one thousand pieces of gold for each day can the hundred thousand troops be mobilized.

In joining battle, seek the quick victory. If battle is protracted, your weapons will be blunted and your troops demoralized. If you lay siege to a walled city, you exhaust your strength. If your armies are kept in the field for a long time, your national reserves will not suffice. Where you have blunted your weapons, demoralized your troops, exhausted your strength and depleted all available resources, the neighboring rulers will take advantage of your adversity to strike. And even with the wisest of counsel, you will not be able to turn the ensuing consequences to the good.

Thus in war, I have heard tell of a foolish haste, but I have yet to see a case of cleverly dragging on the hostilities. There has never been a state that has benefited from an extended war. Hence, if one is not fully cognizant of the

evils of waging war, he cannot be fully cognizant either of how to turn it to best account.

The expert in using the military does not conscript soldiers more than once or transport his provisions repeatedly from home. He carries his military equipment with him, and commandeers (*yin*) his provisions from the enemy. Thus he has what he needs to feed his army.

A state is impoverished by its armies when it has to supply them at a great distance. To supply an army at a great distance is to impoverish one's people. On the other hand, in the vicinity of the armies, the price of goods goes up. Where goods are expensive, you exhaust your resources, and once you have exhausted your resources, you will be forced to increase district exactions for the military. All your strength is spent on the battlefield, and the families on the home front are left destitute. The toll to the people will have been some 70 percent of their property; the toll to the public coffers in terms of broken-down chariots and worn-out horses, body armor and helmets, crossbows and bolts, halberds and bucklers, lances and shields, draft oxen and heavy supply wagons will be some 60 percent of its reserves.

Therefore, the wise commander does his best to feed his army from enemy soil. To consume one measure of the enemy's provisions is equal to twenty of our own; to use up one bale of the enemy's fodder is equal to twenty of our own.

Killing the enemy is a matter of arousing the anger of our men; snatching the enemy's wealth is a matter of dispensing the spoils.[122] Thus, in a chariot battle where more than ten war chariots have been captured, reward those

who captured the first one and replace the enemy's flags and standards with our own. Mix the chariots in with our ranks and send them back into battle; provide for the captured soldiers and treat them well. This is called increasing our own strength in the process of defeating the army.

Hence, in war prize the quick victory, not the protracted engagement. Thus, the commander who understands war is the final arbiter of people's lives, and lord over the security of the state.

謀攻篇

孫子曰：凡用兵之法，全國爲上，破國次之；全軍爲上，破軍次之；全旅爲上，破旅次之；全卒爲上，破卒次之；全伍爲上，破伍次之。是故百戰百勝，非善之善者也；不戰而屈人之兵，善之善者也。故上兵伐謀，其次伐交，其次伐兵，其下攻城。攻城之法，爲不得已，脩(修)櫓轒轀，具器械，三月而後成，距闉，有(又)三月而後已。將不勝其忿而蟻附之，殺士三分之一，而城不拔者，此攻之災(災)也。故善用兵者，詘(屈)人之兵而非戰也，拔人之城而非攻也，毀人之國而非久也，必以全爭於天下，故兵不頓而利可全，此謀攻之法也。故用兵之法：十則圍之，五則攻之，倍則戰之，敵則能分之，少則能守之，不若則能避之。故小敵之堅，大敵之擒也。夫將者，國之輔也，輔周則國必强，輔隙則國必弱。故君之所以患於軍者三：不知軍之不可以進而謂之進，不知軍之不可以退而謂之退，是謂縻軍。不知三軍之事，而同三軍之政，則軍士惑矣；不知三軍之權，而同三軍之任，則軍士疑矣。三軍既(既)惑且疑，則諸侯之難至矣，是謂亂軍引勝。故知勝有五：知可以戰與不可以戰者勝，識衆寡之用者勝，上下同欲者勝，以虞待(待)不虞者勝，將能而君不御者勝。此五者，知勝之道也。故曰：知皮(彼)知己，百戰不殆；不知彼而知己，一勝一負；不知彼，不知己，每戰必殆。

Master Sun said:

The art of warfare is this:

It is best to keep one's own state intact; to crush the enemy's state is only a second best. It is best to keep one's own army, battalion, company, or five-man squad intact; to crush the enemy's army, battalion, company, or five-man squad is only a second best.[123] So to win a hundred victories in a hundred battles is not the highest excellence; the highest excellence is to subdue the enemy's army without fighting at all.

Therefore, the best military policy is to attack strategies; the next to attack alliances; the next to attack soldiers; and the worst to assault walled cities.

Resort to assaulting walled cities only when there is no other choice. To construct siege screens and armored personnel vehicles and to assemble all of the military equipment and weaponry necessary will take three months, and to amass earthen mounds against the walls will take another three months. And if your commander, unable to control his temper, sends your troops swarming at the walls, your casualties will be one in three and still you will not have taken the city. This is the kind of calamity that befalls you in laying siege.

Therefore, the expert in using the military subdues the enemy's forces without going to battle, takes the enemy's walled cities without launching an attack, and crushes the enemy's state without a protracted war. He must use the

principle of keeping himself intact to compete in the world. Thus, his weapons will not be blunted and he can keep his edge intact. This then is the art of planning the attack.[124]

Therefore the art of using troops is this:

When ten times the enemy strength, surround him; when five times, attack him; when double, engage him; when you and the enemy are equally matched, be able to divide him;[125] when you are inferior in numbers, be able to take the defensive; and when you are no match for the enemy, be able to avoid him. Thus what serves as secure defense against a small army will only be captured by a large one.[126]

The commander is the side-guard on the carriage of state.[127] Where this guard is in place, the state will certainly be strong; where it is defective, the state will certainly be weak.

There are three ways in which the ruler can bring grief to his army:[128]

To order an advance, not realizing the army is in no position to do so, or to order a retreat, not realizing the army is in no position to withdraw—this is called "hobbling the army."

To interfere in the administration of the army while being ignorant of its internal affairs will confuse officers and soldiers alike.

To interfere in military assignments while being ignorant of exigencies will lose him the confidence of his men.

Once his army has become confused and he has lost the confidence of his men, aggression from his neighboring

rulers will be upon him. This is called sowing disorder in your own ranks and throwing away the victory.

Therefore there are five factors in anticipating which side will win:

The side that knows when to fight and when not to will take the victory.

The side that understands how to deal with numerical superiority and inferiority in the deployment of troops will take the victory.

The side that has superiors and subordinates united in purpose will take the victory.

The side that fields a fully prepared army against one that is not will take the victory.

The side on which the commander is able and the ruler does not interfere will take the victory.

These five factors are the way (*tao*) of anticipating victory.

Thus it is said:

He who knows the enemy and himself
Will never in a hundred battles be at risk;
He who does not know the enemy but knows himself
Will sometimes win and sometimes lose;
He who knows neither the enemy nor himself
Will be at risk in every battle.[129]

孫子曰：昔之善戰者，先爲不可勝，以侍(待)適(敵)之可勝。不可勝在己，可勝在適(敵)。故善戰者，能爲不可勝，不能使適(敵)必可勝。故曰：勝可智(知)，而不可爲。不可勝者，守也；可勝者，攻也。守則有餘，攻則不足。善守者，臧(藏)於九地之下；善攻者，動於九天之上，故能自葆(保)而全勝也。見勝不過衆人之所知，非善之善者也；戰勝而天下曰善，非善之善者也。故舉秋毫不爲多力，見日月不爲明目，聞雷霆不爲蔥(聰)耳。古之所胃(謂)善戰者，勝於易勝者也。故善戰者之勝也，無奇〔勝〕，無智名，無勇功。故其戰勝不貸(忒)；不貸(忒)者，其所錯(措)必勝，勝已敗者也。故善戰者，立於不敗之地，而不失敵之敗也。是故，勝兵先勝而後求戰，敗兵先戰而後求勝。善用兵者，脩(修)道而保法，故能爲勝敗正。法：一曰度，二曰量，三曰數，四曰稱，五曰勝。地生度，度生量，量生數，數生稱，稱生勝。故勝兵若以鎰(鎰)稱朱(銖)，敗兵若以朱(銖)稱鎰(鎰)。稱勝者之戰民也，若決積水於千邓(仞)之谿者，形也。

Annex 81

Interfax, *The DPR Opened a Criminal Case on the Fact of the Shelling of a Bus Near Volnovakha* (14 January 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

In the world
19:09, January 14, 2015

In the DPR opened a criminal case on the fact of the shelling of a bus near Volnovakha

There is an update from 23:06 →
Families of the dead and injured near Volnovakha will receive assistance from the Donetsk region

Moscow. January 14th. INTERFAX.RU - On Wednesday, the prosecutor's office of the self-proclaimed Donetsk People's Republic opened a criminal case into the shelling of a regular bus near Volnovakha on January 13.

"The Prosecutor General's Office of the DPR informed about the initiation of criminal case No. 18-094-14 on the fact of a terrorist act committed by unidentified persons, which led to grave consequences in the form of the death of passengers on the Donetsk-Zlatoustovka bus," the Donetsk News Agency reports.

"According to the information received during the investigation, the passengers were injured as a result of the explosion of an anti-personnel mine," the report says.

According to the case file, on January 13, at about 2:30 pm local time, unidentified persons used small arms and artillery weapons near the Volnovakha traffic police post, as a result of which the bus passengers and persons who were near the post were injured, from which 10 people died on the spot, 13 were taken to the Volnovakha Central District Hospital with various injuries, where two more people died.

DPR

news

March 31, 22:01
The German authorities thought about the nationalization of the "daughters" of "Gazprom" and "Rosneft"

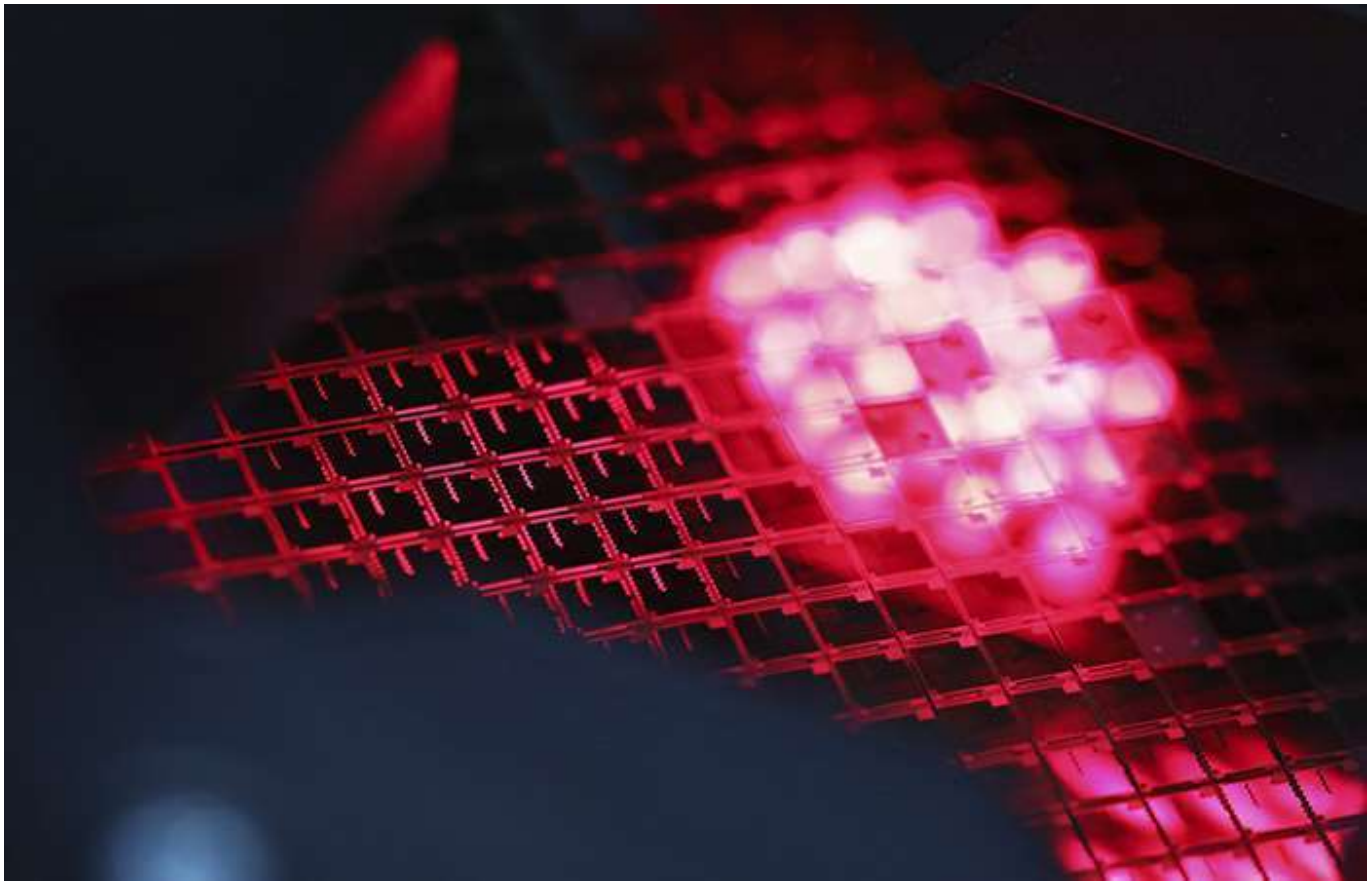
March 31, 19:51
Ukraine initiated the arrest of An-124 aircraft of the Volga-Dnepr airline

March 31, 18:47
Tariffs for oil transit through Ukraine will increase by 30% from April 1

31 марта, 18:07
США смогут вводить санкции за любые связи с аэрокосмической, морской, электронной отраслями РФ

31 марта, 17:48
Шольц заявил, что ФРГ будет платить РФ за газ в евро согласно контрактам

31 марта, 17:40
США ввели санкции против более 30 лиц и структур РФ, связанных с киберсферой



31 марта, 17:05

США выступили против резкого роста импорта российских энергоресурсов Индией

31 марта, 15:48Военная операция на Украине

В Мариуполе создали администрацию ДНР

31 марта, 15:11

ВОЗ оставила в списке вызывающих беспокойство штаммов COVID только "дельту" и "омикрон"

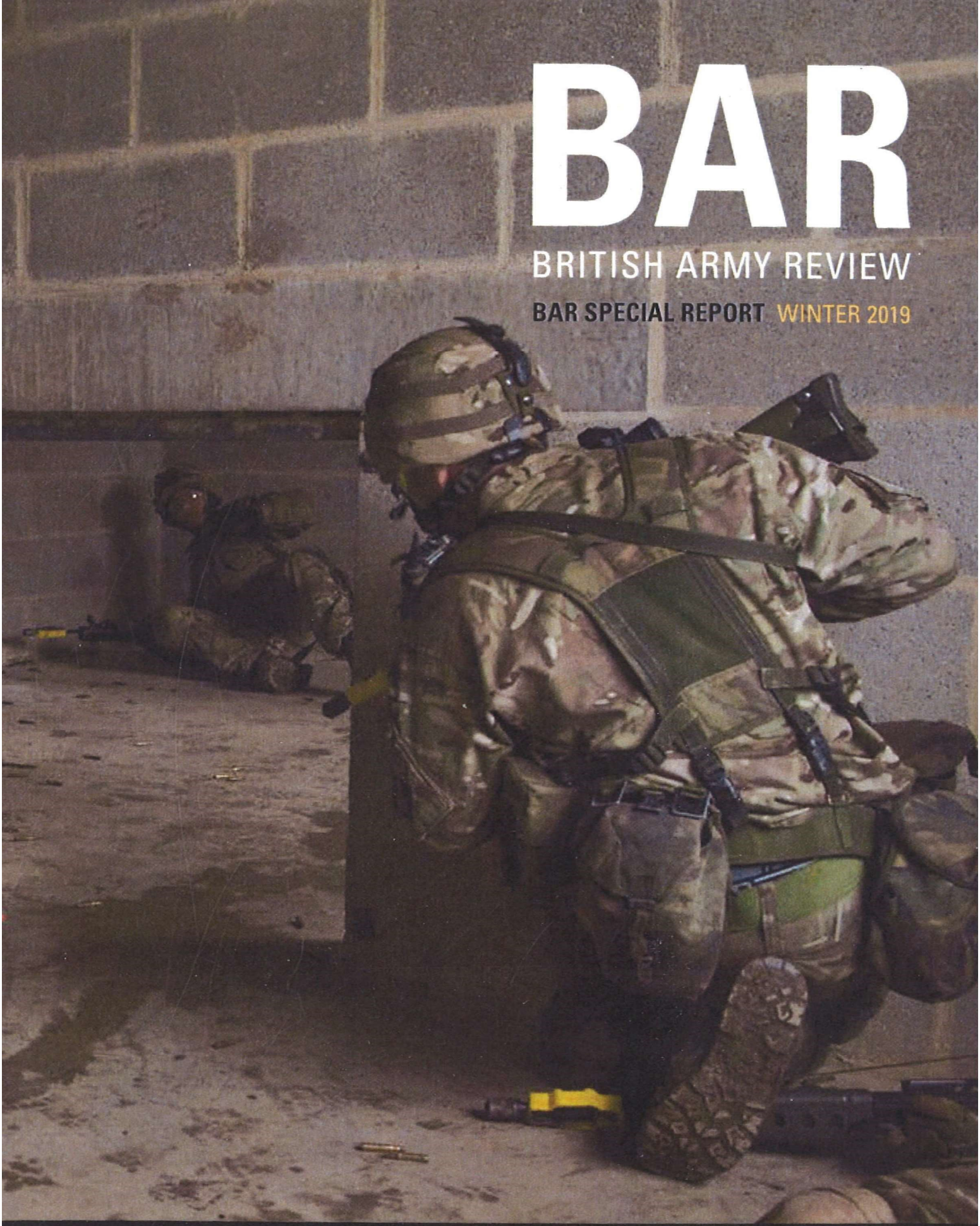
31 марта, 14:22Военная операция на Украине

Минобороны РФ обвинило Украину в создании минной угрозы судам в Черном море

Annex 82

Lt. Col. (Retired) Matthew Whittchurch, Lessons from Soviet Urban Operations 1945, British Army Review Special Report (Winter 2019)

Pursuant to Rules of the Court Article 50(2), this annex is comprised of such extracts of the whole document as are necessary for the purpose of the pleading. A copy of the whole document has been deposited with the Registry.



BAR

BRITISH ARMY REVIEW

BAR SPECIAL REPORT WINTER 2019

URBAN OPERATIONS - VOLUME 2

ARMY
BE THE BEST

An example of a Russian T34 Tank seen at the annual War and Peace Revival Show held in Hythe.

Lessons from Soviet Urban Operations 1945

Lieutenant Colonel (Retd) Matthew Whitchurch MBE explores some of the lessons to be learned from the Soviet Urban Operations of 1945 and applies them to the British Army of today. This article was originally published in BAR 160 Spring/ Summer 2014.

The idea is to defeat the enemy and not necessarily fight him.
From the film The Better Idea 1996

What follows here are some little known lessons from the Soviet Armies of 1945 that provide us with useful insights of how to fight in (and around) built up areas.

The Soviet 8th Guards Army, with 5 divisions, isolated the roughly 80,000 German troops defending the town and then Chuikov summoned the German commander, inviting him to surrender. He declined. From here the Soviets used their Stalingrad[12] experience by forming *Storm Detachments*; a Soviet battalion reorganised into several *Storm Groups* that had a maximum of platoon strength. This was a combined arms platoon of two tanks or self-propelled guns or man-portable towed guns, infantry of no more than 24 as tank riders, 4 engineers capable of demolitions, flame throwing and smoke. The rule was always to put metal before flesh by effective fire before any movement. The infantry platoon commander was the storm group leader. His men were organised into three sections: an assault section to take the objective; another section to hold the objective with heavy weapons and a reserve section. As standard Chuikov insisted that:

> *I again warn the commander of all units and formations not to carry out operations in battle by whole units like companies and battalions. The offensive should be organized chiefly on the basis of small groups, with tommy guns, hand grenades, bottles of incendiary mixture and anti-tank rifles.*[13]

The Soviets divided Poznan into small areas so each Storm Detachment could clear their objectives step by step with plenty of firepower. It is these 'Corporal's Teams' that would later work very well in the fighting during the Battle of Berlin. The Red Army's clearance of Poznan took 23 days.

So What Do We Learn?

Is there a common lesson from the Soviet experiences of the Vistula-Oder campaign? The answer is - yes. The key is - to be good at fighting in built up areas it is crucial to ensure that you can fight outside of these areas. By use of pre-emption and dislocation through intelligent movement and threat of force (or tactical manoeuvre) urban victories can follow that have a lower cost in loss of equipment and lower numbers of casualties than would normally be the case. However, if that fails then seeking the surrender of the enemy is the next step to

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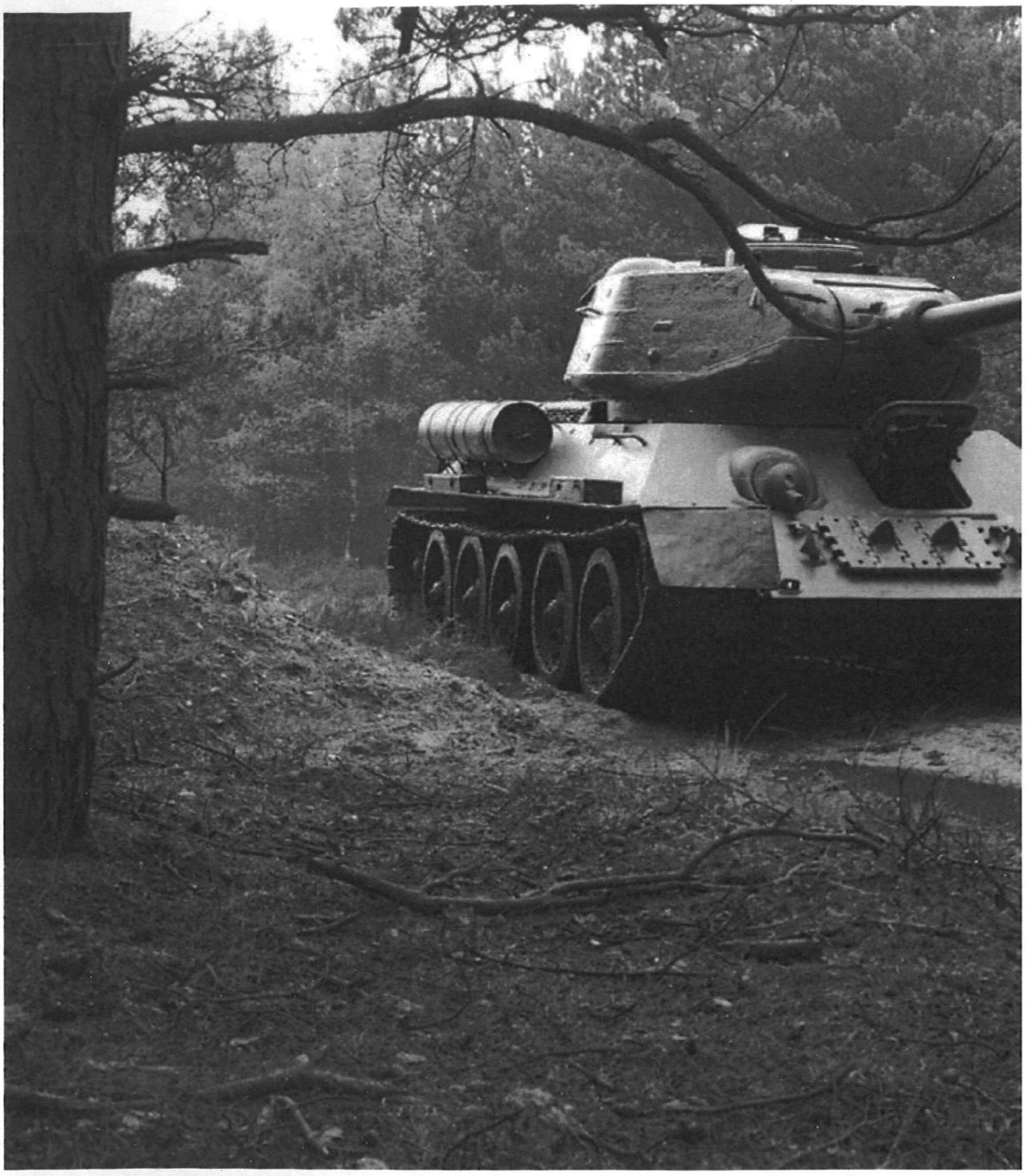
12 Study of General Vasili Chuikov is rewarding. He commanded 62 Army in Stalingrad and can be held responsible for their development of combined arms urban fighting down to platoon and section level. His army is honoured with a new title of 8 Guards Army taking them to wars end in Berlin.

13 Quote on page 203 from article by David Stone - Stalingrad and the evolution of Soviet Urban Warfare - this excellent article shows how the Soviets developed their urban operating methods.



try. But if this fails then encircle and reduce step by step with lots of firepower keeping the enemy at arm's length and minimizing close contact. The idea is to defeat the enemy and not necessarily fight him.

Annex 83

RT, RAW: Footage from Shelled Mariupol in Southeastern Ukraine (video)

Annex 84

RT, Ukraine: Mariupol Hit by Heavy Shelling, Streets Devastated (video)

Annex 90

Law of Ukraine No. 1636-VII "On Establishing Free Economic Zone 'Crimea' and on Specifics of Conducting Economic Activity in the Temporarily Occupied Territory of Ukraine" (12 August 2014)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

LAW OF UKRAINE

About creation of a free economic zone "Crimea" and about features of implementation of economic activity in the temporarily occupied territory of Ukraine

(Vidomosti Verkhovnoi Rady (VVR), 2014, № 43, p.2030)

{With changes made in accordance with the Laws
№ 1706-VII of 20.10.2014 , VVR, 2015, № 1, Article 1
№ 685-VIII of 15.09.2015 , VVR, 2015, № 46, Article 417}

This Law is a special law that determines the specifics of economic activity in the temporarily occupied territory of Ukraine in accordance with Article 13 of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine", creates a free economic zone "Crimea". FEZ "Crimea"), and regulates other aspects of legal relations between individuals and legal entities located in the temporarily occupied territory or outside it.

Section I
FREE ECONOMIC ZONE "CRIMEA"

Article 1. The territory of the free economic zone "Crimea"

1.1. FEZ "Crimea" is introduced within two administrative-territorial units of Ukraine: the Autonomous Republic of Crimea and the city of Sevastopol.

1.2. The administrative border between the territory of the FEZ "Crimea" and the other territory of Ukraine coincides with the land administrative border between the Autonomous Republic of Crimea and the Kherson region.

1.3. The territory of the FEZ "Crimea" does not extend to the exclusive maritime economic zone of Ukraine, defined as such in accordance with the provisions of the United Nations Convention on the Law of the Sea 1982 and the Agreement on Implementation of Part XI of the Convention of December 10, 1982, namely: and adjacent areas, straits used for international navigation, the continental shelf, the high seas, the island regime and the international seabed area, and the airspace over the Crimean peninsula as defined in accordance with the 1944 Convention on International Civil Aviation .

The norms of the 1992 Open Skies Treaty apply to the territory of the FEZ "Crimea" .

Article 2. Term of validity of the free economic zone "Crimea"

2.1. FEZ "Crimea" is introduced for ten full calendar years, starting from the date of entry into force of this Law.

2.2. The validity of the FEZ "Crimea" may be extended or shortened by the law of Ukraine.

The functioning of the FEZ "Crimea" during the regime of temporary occupation of its territory is carried out taking into account the features specified in Section II "Transitional Provisions" of this Law.

2.3. The end of the temporary occupation regime is not a ground for terminating the FEZ "Crimea".

Article 3. Legal regime of the free economic zone "Crimea"

3.1. On the territory of FEZ "Crimea" there is a special legal regime of economic activity of individuals and legal entities, including a special procedure for application of regulatory, tax and customs legislation of Ukraine, as well as a special regime of internal and external migration of individuals.

3.2. Within the FEZ "Crimea" a free customs zone is created, which by its functional type is at the same time a free customs zone of commercial, service and industrial type in accordance with Article 430 of the Customs Code of Ukraine.

3.3. Peculiarities of the legal regime of the FEZ "Crimea" and the free customs zone on its territory are determined by this Law taking into account the norms of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine".

3.4. Customs formalities related to the movement of goods, commercial vehicles and citizens across the administrative border of the FEZ "Crimea" are carried out in customs control zones located in places defined by Article 329 of the Customs Code of Ukraine.

Article 4. Establishment of the Free Economic Zone "Crimea" and the Management Company of the Free Economic Zone "Crimea"

4.1. FEZ "Crimea" is established in accordance with this Law (ipso jure) without the consent of the relevant local governments or local executive bodies.

4.2. The body of economic development and management of the FEZ "Crimea" is the Management Company of the FEZ "Crimea" (hereinafter - the Management Company), which is a legal entity and is state-owned.

4.3. During the term of the FEZ "Crimea" the Management Company cannot be corporatized or privatized.

4.4. The functions and powers of the Management Company, as well as the procedure for control over its activities are determined by the Cabinet of Ministers of Ukraine.

The Cabinet of Ministers of Ukraine may refuse to establish a Management Company or delegate its functions and powers to the central executive body of Ukraine or a state enterprise designated by it (hereinafter referred to as the authorized body for Crimea).

Article 5. Collection of taxes on the territory of the free economic zone "Crimea"

5.1. National taxes and fees specified in Article 9 of the Tax Code of Ukraine and the mandatory state pension insurance fee provided for in the Law of Ukraine "On Compulsory State Pension Insurance Fees" are not collected on the territory of the FEZ Crimea.

5.2. Relationships between persons who have a tax address in the territory of the FEZ "Crimea" and persons who have a tax address in another territory of Ukraine are controlled transactions in accordance with Article 39 of the Tax Code of Ukraine.

5.3. A natural person who has a tax address (residence), a legal entity (separate subdivision) who has a tax address (location) on the territory of the FEZ "Crimea", are equated for tax purposes to a non-resident.

A natural person who has a tax address (residence), a legal entity (separate subdivision) who has a tax address (location) in another territory of Ukraine, are equated for tax purposes to a resident.

5.4. The provisions of paragraph 103.1 of Article 103 of the Tax Code of Ukraine shall not apply to persons equated to non-residents in accordance with paragraph 5.3 of this Article.

5.5. The provisions of Articles 154 , 155 , 157 , 158 of the Tax Code of Ukraine do not apply to the income of persons equated to residents in accordance with paragraph 5.3 of this article, who have a source of origin from the territory of the FEZ "Crimea".

5.6. Article 160 of the Tax Code of Ukraine is applied taking into account that the benefits established for taxation of income specified in subparagraphs "and" of paragraph 160.1 of Article 160 of the Tax Code of Ukraine do not apply, and prizes provided (paid) in favor of persons equated to resident in accordance with paragraph 5.3 of this article, are subject to taxation at their payment (issuance) and at their expense at double the basic rate established in paragraph 151.1 of Article 151 of the Tax Code of Ukraine (subject to subsection 4 of paragraph 10 of Section XX "Transitional Provisions").

5.7. Any income derived from the territory of the FEZ "Crimea", received by a person equated to a resident in accordance with paragraph 5.3 of this article, is subject to taxation as foreign income under the general rules established by the Tax Code of Ukraine .

5.8. Income of employees who have a permanent residence in the FEZ "Crimea", such as wages and other similar payments and compensations paid by an employer located in another territory of Ukraine, are taxed according to the general rules of the location of such employer.

5.9. Local taxes and fees specified in Article 10 of the Tax Code of Ukraine may be levied on the territory of the FEZ "Crimea" , taking into account the provisions of this Article.

5.10. An individual who has a tax address in another territory of Ukraine than the FEZ "Crimea" is obliged to declare residential real estate owned and located in the territory of the FEZ "Crimea", in order to:

a) determination of the general tax base of real estate tax, other than land, in accordance with paragraph 265.3 of Article 265 of the Tax Code of Ukraine;

b) obtaining benefits from the tax on real estate other than land, in accordance with paragraph 265.4 of Article 265 of the Tax Code of Ukraine.

5.11. Expenses of a legal entity equated to a resident incurred to pay for goods (works, services) supplied by a person equated to a non-resident are included in the expenses of such a person in the amount provided for in paragraph 161.2 of Article 161 of the Tax Code of Ukraine for offshore companies.

Article 6. Features of delivery of goods on (from) the territory of the free economic zone "Crimea"

6.1. The supply of goods to the territory of the FEZ Crimea, as well as the supply of services to the territory of the FEZ Crimea is subject to the laws of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime or Terrorist Financing" , "On State Control over International Transfers of Military and Dual-Use Goods" .

Such supplies are not subject to international agreements (treaties) governing the international circulation of goods, in particular (but not exclusively) on free trade areas, or concluded within the framework of GATT / WTO.

6.2. Temporary importation of motor vehicles (motor vehicles, trailers, semi-trailers) or railway rolling stock registered in the territory of the FEZ "Crimea" used for transportation across the administrative border of the FEZ "Crimea" for paid transportation of persons or for paid or unpaid industrial or commercial goods together with their usual spare parts, accessories and equipment, as well as lubricants and fuels contained in their usual tanks, during their transportation together with commercial vehicles, is carried out with full conditional exemption from taxation in the manner prescribed by Ukrainian legislation means of commercial use across the customs border of Ukraine.

6.3. Customs formalities related to the movement of goods, commercial vehicles and citizens across the administrative border of the FEZ Crimea are carried out in customs control zones located in places defined in Article 329 of the Customs Code of Ukraine, as when moving through the customs territory of Ukraine.

6.4. Goods produced, sufficiently processed or imported into the customs territory of Ukraine and released for free circulation in the temporarily occupied territory of Ukraine before the entry into force of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine" are considered goods of Ukrainian origin. , which move freely to another territory of Ukraine without the application of measures of tariff and non-tariff regulation of foreign economic activity until January 1, 2015.

6.5. For the purposes of applying tax and customs legislation, agreements concluded between business entities located in the territory of the FEZ "Crimea" and other business entities are documents used instead of foreign economic agreements (contracts).

6.6. Goods that according to Section II of the Customs Code of Ukraine meet the criteria of fully produced, sufficiently processed or imported into the customs territory of Ukraine and released for free circulation in the temporarily occupied territory of Ukraine, are considered goods originating in Ukraine and freely moved to another territory which duty provided for in Chapter 42 of the Customs Code of Ukraine, subject to the submission of a certificate of origin from Ukraine, issued by the Chambers of Commerce and Industry in another territory of Ukraine.

Article 7. The order of crossing by physical persons of administrative border of a free economic zone "Crimea"

7.1. Individuals crossing the administrative border of the FEZ "Crimea" are subject to Section XII of the Customs Code of Ukraine, taking into account the provisions of Article 9 of this Law on the movement of currency values.

7.2. The Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime or Terrorist Financing" applies to individuals who cross the administrative border of the FEZ "Crimea ".

7.3. Citizens of Ukraine during the crossing of the administrative border of the FEZ "Crimea", guided by the Law of Ukraine "On Freedom of Movement and Free Choice of Residence in Ukraine", have the right to:

a) cross the administrative border between the FEZ "Crimea" and the rest of Ukraine, subject to the presentation of any document specified in Article 5 of the Law of Ukraine "On Citizenship of Ukraine" or Article 2 of the Law of Ukraine "On leaving Ukraine and entering Ukraine to the citizens of Ukraine ";

b) cross the administrative border of the FEZ "Crimea" from outside (outside) the state border of Ukraine, subject to the presentation of any document specified in Article 2 of the Law of Ukraine "On the Procedure for Leaving Ukraine and Entering Ukraine by Citizens of Ukraine" .

7.4. Foreign citizens and stateless persons when crossing the administrative border of the FEZ "Crimea" are guided by the Law of Ukraine "On the legal status of foreigners and stateless persons", taking into account the fact that they:

a) have the right to cross the administrative border of the FEZ "Crimea" on presentation of an appropriate passport document of a foreigner specified in paragraph 16 of part 1 of Article 1 of the Law of Ukraine "On Legal Status of Foreigners and Stateless Persons" or a temporary residence permit specified in paragraph 18 Article 1 (if there are grounds specified in parts four to twelve of Article 4 of this Law;

b) in case of violation of the rules of crossing the administrative border of the FEZ "Crimea" - fall under Article 13 of the Law of Ukraine "On Legal Status of Foreigners and Stateless Persons";

c) have the right to cross the administrative border of the FEZ "Crimea" in the cases and according to the procedure provided by the United Nations Convention relating to the Status of Refugees of 1951 .

Article 8. The order of granting of the state guarantees in the territory of free economic zone "Crimea"

8.1. Ukraine guarantees the protection of property and non-property rights of individuals and legal entities in the FEZ "Crimea" in accordance with the laws of Ukraine, including the protection of foreign investment.

8.2. State guarantees for internal and external local borrowings (loans) of the Autonomous Republic of Crimea and the city of Sevastopol, as well as persons who have a location (residence, stay) in this area are not provided. The procedure for payment (write-off, sale) of previously guaranteed state debt of the Autonomous Republic of Crimea and the city of Sevastopol or persons staying in this territory, in the part that remains outstanding on the date of entry into force of this Law, shall be established by the Cabinet of Ministers.

8.3. Individuals who live (stay) in the FEZ "Crimea" and have foreign citizenship or are stateless persons are not covered by state guarantees (benefits, assistance) established by the laws of Ukraine "On state guarantees of recovery of savings of citizens of Ukraine" , " On state aid to families with children " and other laws of Ukraine.

Article 9. Effect of currency and payment regimes within the free economic zone "Crimea"

9.1. On the territory of FEZ "Crimea" a multicurrency regime can be applied, according to which both hryvnia and currencies of foreign countries included by the National Bank of Ukraine in the payment for the cost of goods (works, services) sold (provided) within the FEZ "Crimea" are accepted. 1-2 groups of the Classifier of Foreign Currencies and Bank Metals.

Any non-cash payments (transfers) from the territory of the FEZ "Crimea" to another territory of Ukraine or from another territory of Ukraine to the territory of the FEZ "Crimea" are made exclusively in hryvnia or in freely convertible currency. The peculiarities of the regime of such payments (transfers) shall be established by the National Bank of Ukraine.

The operations provided for in paragraph 9.1 of this Article do not require an individual license of the National Bank of Ukraine specified in paragraph 4 of Article 5 of the Decree of the Cabinet of Ministers of Ukraine "On the system of currency regulation and currency control".

9.2. Individuals have the right to import or export cash or bank metals to the territory of the FEZ "Crimea" or export it to another territory of Ukraine in the amount established by the National Bank of Ukraine in accordance with the Decree of the Cabinet of Ministers of Ukraine "On Currency Regulation and Currency Control" Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime or Financing of Terrorism".

9.3. The norms of the Law of Ukraine "On Payment Systems and Funds Transfer in Ukraine " apply to the territory of FEZ "Crimea" , taking into account that:

a) electronic means of payment issued in the territory of the FEZ "Crimea", including as a mobile payment instrument, may not be used in another territory of Ukraine for the purpose of initiating any money transfer;

b) electronic means of payment issued by the domestic payment system or international payment systems may be used on the territory of the FEZ "Crimea".

9.4. The requirements of the legislation of Ukraine on the mandatory sale of revenues (including revenues) in foreign currency do not apply to legal entities (branches, offices, other separate units of legal entities) located in the FEZ "Crimea".

The norms of the Law of Ukraine "On the Procedure for Making Settlements in Foreign Currency" do not apply to transactions carried out between residents of Ukraine and persons located on the territory of the FEZ "Crimea", as well as to settlements on such transactions .

Article 10. Application of separate norms of the regulatory legislation in the territory of the free economic zone "Crimea"

10.1. Business entities with a location (residence) on the territory of the FEZ "Crimea" may acquire the status of participants, participants of preliminary qualification or performers, and goods (works, services) originating from the territory of the FEZ "Crimea" may be subject to state procurement on general grounds in accordance with the Law of Ukraine "On Public Procurement", carried out at the expense of state or local budgets.

10.2. The Laws of Ukraine "On Protection against Unfair Competition" , "On Protection of Economic Competition" apply to relations arising between business entities located in the FEZ "Crimea" and business entities located in other territories of Ukraine.

10.3. Licenses issued before the entry into force of this Law to business entities in accordance with the Law of Ukraine "On Licensing of Certain Economic Activities", the Law of Ukraine "On Radio Frequency Resource of Ukraine", and / or certificates issued in accordance with the Decree of the Cabinet of Ministers and certification ", and / or permits issued in accordance with the Law of Ukraine " On Permitting System in the Sphere of Economic Activity "are valid on the territory of FEZ" Crimea "until the expiration of these licenses, certificates, permits.

Article 11. Features of labor relations in the territory of the free economic zone "Crimea"

11.1. Citizens of Ukraine who permanently or temporarily reside in the FEZ Crimea and / or are in an employment relationship with an employer located in the FEZ Crimea are subject to the provisions of the International Labor Organization conventions approved by Ukraine. , the principles of the Tripartite Declaration of Principles Concerning Multinational Corporations and Social Policy of 1977, as well as Ukrainian labor legislation.

11.2. On the territory of FEZ "Crimea":

a) the free activity of trade unions and the right to strike are guaranteed in accordance with the Law of Ukraine "On Trade Unions, Their Rights and Guarantees of Activity". A trade union that extends its activities to the territory of the FEZ "Crimea" may be established (its governing bodies are located) also outside the territory of the FEZ "Crimea";

b) the norms of the laws of Ukraine "On the procedure for resolving collective labor disputes (conflicts)" , "On employers' organizations, their associations, rights and guarantees of their activities" apply , taking into account that the organization (association) of employers may be established (governing bodies are located) outside the territory of the FEZ "Crimea"), "On the collection and accounting of a single contribution to the obligatory state social insurance . "

Section II
TRANSITIONAL PROVISIONS

Article 12. Peculiarities of functioning of the free economic zone "Crimea" during the temporary occupation of its territory

{Paragraph 12.1 of Article 12 is excluded on the basis of Law № 685-VIII of 15.09.2015 }

{Paragraph 12.2 of Article 12 is excluded on the basis of Law № 685-VIII of 15.09.2015 }

12.3. During the temporary occupation, the collection of taxes and fees, the single social contribution and the use of registrars of settlement operations in relation to the territory of the FEZ "Crimea" are subject to the fact that:

1) national taxes and fees specified in Article 9 of the Tax Code of Ukraine, Article 271 of the Customs Code of Ukraine, the single contribution established by the Law of Ukraine "On Collection and Accounting of the Single Contribution to Compulsory State Social Insurance" and the fee for mandatory state pension insurance , the collection of which is carried out in accordance with the Law of Ukraine "On the fee for mandatory state pension insurance", are not collected from income received

by legal entities (their separate units) and individuals in the temporarily occupied territory, operations and / or other objects taxation (including objects related to taxation) in the temporarily occupied territory.

Persons who were registered with the supervisory authorities or had a location (residence) in the Autonomous Republic of Crimea or the city of Sevastopol at the beginning of the temporary occupation, are released from the obligation to pay a single contribution under the Law of Ukraine "On collection and registration of a single contribution "binding state social insurance" and compliance with the Law of Ukraine "On the use of registrars of settlement operations in the field of trade, catering and services" in the conduct of their business activities in the temporarily occupied territory of Ukraine.

Such persons have the right to voluntarily pay the single contribution provided by the Law of Ukraine "On Collection and Accounting of the Single Contribution for Compulsory State Social Insurance" in accordance with the procedure established by the Cabinet of Ministers of Ukraine or the authorized body for Crimea.

Persons who were registered with the supervisory authorities or had a location (residence) in the Autonomous Republic of Crimea or the city of Sevastopol at the beginning of the temporary occupation, are exempt from the obligation to submit to the supervisory authorities declarations (except customs declarations), reports and other documents related to the calculation and payment of taxes and fees during the period of such temporary occupation and after its completion;

2) excise tax stamps that remain unused as of the date of entry into force of this Law by producers of alcoholic beverages and tobacco products that were registered in the temporarily occupied territory before the beginning of the temporary occupation:

a) or used by such producers in another territory of Ukraine subject to payment of appropriate amounts of excise tax;

b) or in accordance with the procedure established by the Cabinet of Ministers of Ukraine, shall be transferred to other producers of alcoholic beverages and tobacco products registered in another territory of Ukraine. In this case, such other producers reimburse the costs incurred to pay the cost of production of these brands of excise tax on the terms agreed between the parties, and pay the appropriate amount of excise tax;

c) or returned to the controlling body - the seller of excise tax stamps in the manner prescribed by the Cabinet of Ministers of Ukraine. In this case:

the amount of excise tax paid is returned to such producer of alcoholic beverages and tobacco products or, at his request, is taken into account in the reduction of its excise tax liabilities in subsequent tax periods;

the costs incurred to pay the cost of production of these brands of excise tax are not reimbursed;

the controlling body decides to destroy such excise tax stamps or to issue them to other producers of alcoholic beverages and tobacco products registered in another territory of Ukraine, without paying a fee for the manufacture of such stamps. The procedure for destruction or issuance of such excise duty stamps shall be established by the Cabinet of Ministers of Ukraine or the authorized body for the Crimea;

3) from June 1, 2014, the tax registration of persons who as of May 31, 2014 had a location (residence) and were registered with the supervisory authorities in the Autonomous Republic of Crimea or the city of Sevastopol shall be revoked.

Such tax registration may be renewed after the evacuation of a person to another territory of Ukraine in accordance with Article 15 of this Law in the manner prescribed by the central executive body for taxation, or as a result of the expiration of the temporary occupation;

4) in the case of import to another territory of Ukraine of tobacco products or alcoholic beverages produced in the temporarily occupied territory before the entry into force of this Law, the taxpayer shall submit to the supervisory authority together with other documents provided by the Customs Code of Ukraine. excise tax stamps on payment by the producer of alcohol tax amounts for the production of which undenatured ethyl alcohol is used, to the relevant budget in full and / or a copy of the application-calculation with the seller's mark of excise tax stamps on payment of alcohol tax by the taxpayer the production of which does not use undenatured ethyl alcohol, to the state budget in full;

5) to obtain the right to social tax benefit provided for in Article 169 of the Tax Code of Ukraine, a resident individual must declare income originating from the FEZ "Crimea" and submit a declaration of statelessness of the occupying state;

6) any taxes, fees (mandatory payments) collected on the territory of the FEZ "Crimea" do not change the amount of tax liabilities from taxes, fees (mandatory payments) accrued (subject to collection) in another territory Ukraine;

7) any income with a source of their origin from the territory of the FEZ "Crimea", received by individuals, legal entities equated to residents, is taxed according to the rules established for foreign income;

8) during the temporary occupation, the provisions of paragraph 5.11 of Article 5 of this Law shall not apply;

9) any income with a source of their origin from another territory of Ukraine, accrued (paid) in favor of persons equated to non-residents, is taxed according to the rules established for their payment (repatriation) abroad of Ukraine;

10) payers of corporate income tax having separate divisions on the territory of the FEZ "Crimea" and taxpayers of the specified tax located on the territory of the FEZ "Crimea" who have separate divisions on the other territory of Ukraine may not pay corporate income tax on consolidated basis;

11) to the taxpayers who at the beginning of the temporary occupation were located in the Autonomous Republic of Crimea and the city of Sevastopol, shall not apply from the first day of the month following the month in which the temporary occupation began, financial and penalties for violation , calculation, correctness of filling in tax returns (tax reporting) and completeness of payment of taxes and fees;

{Subparagraph 11 of paragraph 12.3 of Article 12 as amended by the Law № 685-VIII of 15.09.2015 }

12) the application of the provisions of Articles 59 , 60 , 87-101 , 124 , 126 and 129 of the Tax Code of Ukraine to taxpayers located in the territory of the FEZ "Crimea" shall be suspended .

Tax information on the amounts of tax debt of taxpayers located in the FEZ "Crimea" is stored and processed in the information databases of regulatory authorities in a separate (off-balance sheet) order.

12.4. During the temporary occupation, the supply of goods to the territory (from the territory) of the FEZ "Crimea" is carried out taking into account the fact that:

1) customs formalities related to the supply of goods, movement of commercial vehicles and individuals across the administrative border of the FEZ "Crimea" are carried out at the relevant entry-exit checkpoints, where units of revenues and fees are formed, and for deliveries of goods moving by pipeline transport and power lines - in the places specified in Article 231 and part five of Article 247 of the Customs Code of Ukraine;

2) for goods imported from the FEZ "Crimea" to another territory of Ukraine, at the request of the seller (manufacturer, supplier) issued a certificate of origin in the manner prescribed by Section II of the Customs Code of Ukraine, subject to Protocol I to the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and its Member States, of the other part, of the Agreement on Determining the Country of Origin of Goods in the Commonwealth of Independent States of 2009 (excluding goods intended for export to the occupying state) and other international treaties of Ukraine, the binding nature of which was approved by the Verkhovna Rada of Ukraine.

Prerequisite for obtaining a certificate or other documents on the origin of goods from Ukraine is the provision of appropriate documents in accordance with the law.

Customs clearance of goods imported from the territory of the FEZ "Crimea" to another territory of Ukraine and exported outside the customs territory of Ukraine as goods of Ukrainian origin is carried out in accordance with the Customs Code of Ukraine in another (except the occupied) territory of Ukraine. confirming the origin of goods from Ukraine, provided for in Section II of the Customs Code of Ukraine and / or the relevant international agreement.

Verification of the data specified in the submitted documentation may be carried out by the customs authorities of Ukraine in the manner and in the cases provided by the Customs Code of Ukraine and / or the relevant international agreement;

3) norms of part two of Article 130 , part three of Article 131 , part four of Article 136 , Articles 137-139 , part seven of Article 430 , Article 432 , items 2 , 4 and 5 of part one of Article 433 , parts three and five of Article 434 , Articles 435 , 436 of the Customs Code of Ukraine are not applied on the territory of FEZ "Crimea";

4) The Cabinet of Ministers of Ukraine has the right to temporarily restrict the supply of certain goods (works, services) and / or under separate (all) customs regimes from the temporarily occupied territory to another territory of Ukraine and / or from another territory of Ukraine to the temporarily occupied territory.

The following decision:

a) is adopted solely for the purpose of ensuring the security of the state, maintaining public order and protecting the health of the population of Ukraine;

b) enters into force not earlier than 30 calendar days after its promulgation;

c) may not lead to violation of the Law of Ukraine "On Protection against Unfair Competition", other antimonopoly legislation of Ukraine in the part that applies to buyers of such goods (works, services) in another territory of Ukraine;

5) delivery of goods from the territory of FEZ "Crimea" to other territory of Ukraine for the purpose of their free circulation is carried out in the customs regime of import with application of norms of the legislation of Ukraine on the state sanitary-epidemiological, veterinary-sanitary, phyto-sanitary, ecological, radiological control, other measures tariff and non-tariff regulation, taking into account the provisions of Article 6 of this Law.

Supply of goods with customs status of Ukrainian goods from another territory of Ukraine to the territory of FEZ "Crimea" is equated to the customs regime of export, including for the purposes of tariff and non-tariff regulation;

6) goods that were on the territory of the FEZ "Crimea" on the day of entry into force of this Law, acquire the customs status of foreign goods, taking into account the provisions of Article 6 of this Law.

12.5. Natural persons (foreigners, stateless persons, citizens of Ukraine) residing in the temporarily occupied territory of Ukraine, including those temporarily staying in another territory of Ukraine, as well as legal entities and their separate subdivisions located in the temporarily occupied territory Ukraine is recognized as a non-resident for the purposes of customs formalities.

12.6. During the temporary occupation, an individual may cross the administrative border of the FEZ "Crimea", taking into account that:

1) the procedure for crossing the administrative border of the FEZ "Crimea" by individuals shall be established taking into account the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine";

2) the norms of international agreements concluded between the competent authorities of Ukraine and other countries on the use of national (internal) documents for entry, exit and movement of individuals through the territory of the Contracting Parties do not apply to the temporarily occupied territory of Ukraine;

3) a passport or other travel document of a person issued by the competent authority of the occupying state in the temporarily occupied territory of Ukraine, or a natural person permanently residing or temporarily staying in such occupied territory, is considered invalid (does not entitle) to cross the administrative border FEZ "Crimea" and the state border of Ukraine;

4) temporary border control is introduced at the administrative border of the FEZ "Crimea".

12.7. During the temporary occupation, the procedure for providing state guarantees on the territory of the FEZ "Crimea" operates taking into account the fact that:

1) Laws of Ukraine "On State Guarantees of Restoration of Savings of Citizens of Ukraine" , "On the Deposit Guarantee System for Individuals" , "On State Assistance to Families with Children" and other legislative acts of Ukraine, which provide subsidies, subsidies and other cash benefits for account of budgets, funds of the state social insurance (provision), Fund of guarantee of deposits of physical persons, reception of the tax social privilege, and also the privileges and compensations defined by article 14 of this Law:

a) apply to citizens of Ukraine who do not have the citizenship of the occupying state at the same time;

b) are provided in another territory of Ukraine in the case of compliance with the procedures prescribed by law, subject to the presentation of a valid passport of a citizen of Ukraine and a personal declaration of non-citizenship of the occupying state;

2) a citizen of Ukraine who personally declares the absence of citizenship of the occupying state, but actually has such citizenship at the time of obtaining state guarantees, is subject to legal liability established by the laws of Ukraine for illegal (illegal) receipt of relevant payments (benefits, compensations).

12.8. During the regime of temporary occupation, the currency and payment regimes operate taking into account the fact that:

1) the system of electronic payments of the National Bank of Ukraine and domestic payment systems, the payment organizations of which are residents of Ukraine, are not used in the temporarily occupied territory of Ukraine;

2) the movement of cash currency of the occupying state across the administrative border of the FEZ "Crimea" is prohibited, except for its movement by individuals in an amount not exceeding the equivalent of 10,000 hryvnias, subject to oral declaration to a customs official;

3) attracting deposits (deposits) and / or granting loans (credits) denominated in the currency of the occupying state on the territory of Ukraine is prohibited;

4) The National Bank of Ukraine may establish a special procedure for importing cash currency of the occupying state through other parts of the state border of Ukraine and / or a special procedure for exchanging currency of the occupying state into hryvnia in another territory of Ukraine, limit or prohibit such exchange for temporary occupation ;

5) the foreign exchange reserve of Ukraine may not contain currency issued by the occupying state or securities (other debt instruments) denominated in the currency of the occupying state.

12.9. During the temporary occupation, the norms of regulatory legislation on the territory of the FEZ "Crimea" are applied taking into account that:

1) licenses granted to business entities before the entry into force of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" in accordance with the Law of Ukraine "On Licensing Certain Economic Activities", and / or certificates in accordance with the Decree of the Cabinet of Ministers of Ukraine "On Standardization and Certification", and / or permits issued in accordance with the Law of Ukraine "On Permitting System in the Sphere of Economic Activity":

a) are considered valid in the temporarily occupied territory of Ukraine;

b) may be used to conduct economic (business) activities in another territory of Ukraine before the expiration of their validity;

c) may not be extended in accordance with the legislation of Ukraine, except when the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" expires before the expiration of such licenses (permits). This provision does not apply to the procedure for renewal, reissuance of certificates;

d) may be suspended (canceled, revoked, canceled) on the grounds established by the legislation of Ukraine. If a court decision is required by law, such a court must be located in another (unoccupied) territory of Ukraine.

Licenses for export of goods issued in accordance with Article 16 of the Law of Ukraine "On Foreign Economic Activity" to foreign economic entities registered in the FEZ "Crimea" are considered revoked to carry out their licensed activities from the date of entry into force of this Law.

Licenses and permits for activities specified in Article 404 of the Customs Code of Ukraine, issued by the bodies of revenues and fees to enterprises, are revoked for their licensed (permitting) activities in the Autonomous Republic of Crimea and Sevastopol from the date of entry into force of this Law.

Licenses for activities defined by the Law of Ukraine "On State Regulation of Production and Circulation of Ethyl, Cognac and Fruit Alcohol, Alcoholic Beverages and Tobacco Products" issued by the bodies of revenues and fees to business entities may be used for economic (business) activities until the expiration of their validity, subject to payment of the next payment for such licenses;

2) The Cabinet of Ministers of Ukraine shall decide on the specifics of the application of the provisions of this paragraph, taking into account that any dispute between Ukraine and the occupying State is referred to a court established under the law of a neutral country and / or under the auspices of the United Nations.

12.10. In the temporarily occupied territory of Ukraine:

(a) Obligations to respect human rights are vested in the occupying Power in accordance with the 1949 Geneva Conventions and the 1977 Additional Protocols;

b) the person is released from the obligation to obtain a work permit for foreigners and stateless persons provided by the Law of Ukraine "On Employment";

c) the person is not legally liable for non-payment or delay in payment of wages to employees provided by the legislation of Ukraine, if such non-payment (delay) arose as a result of temporary occupation (circumstances of force majeure).

12.11. During the temporary occupation:

a) business entities with a location (residence) in the FEZ "Crimea" and business entities with a location (residence) in another territory of Ukraine enter into agreements based on the use of Ukrainian law and paragraph 9.1 of Article 9 of this Law ;

b) disputes between business entities with a location (residence) in the FEZ "Crimea" and business entities with a location (residence) in another territory of Ukraine, not settled by negotiation, subject to the courts of Ukraine or, by agreement parties, the International Commercial Arbitration Court at the Chamber of Commerce and Industry of Ukraine and the Maritime Arbitration Commission at the Chamber of Commerce and Industry of Ukraine;

c) chambers of commerce and industry of Ukraine certify the existence of force majeure (force majeure) in accordance with the terms of agreements between business entities located (residence) in the FEZ "Crimea" and business entities located (residence)) in another territory of Ukraine, unless another procedure for certifying the existence of such circumstances of force majeure (force majeure) is not established by international treaties of Ukraine.

Article 13. Operations with objects of the right of private, state and municipal property in the temporarily occupied territory of Ukraine

13.1. Objects of private, state and communal property rights located (located) in the temporarily occupied territory of Ukraine shall remain the property of persons who owned (used) such objects at the beginning of the temporary occupation.

13.2. During the period of temporary occupation:

a) the transfer of private property rights to objects located (located) in the temporarily occupied territory of Ukraine shall be subject to registration in another territory of Ukraine in accordance with the rules established by the legislation of Ukraine;

b) privatization of state and communal property is carried out in accordance with the Law of Ukraine "On Privatization of State Property" and the legislation of Ukraine on privatization of communal property;

c) any transactions with lands located (located) within the temporarily occupied territory of Ukraine are carried out in accordance with the rules established by the Land Code of Ukraine and other legislation of Ukraine on the alienation (sale, lease) of land in Ukraine.

13.3. During the temporary occupation, it is not allowed to carry out any transactions with the objects of property specified in paragraph 13.1 of this article, if their party is a person who is owned or controlled by the occupying state. The term "control" is used in the meaning defined by paragraph 17 of the first part of Article 1 of the Law of Ukraine "On Financial Services and State Regulation of Financial Services Markets".

13.4. Any agreements entered into contrary to the requirements of this Article shall be deemed legally void from the date of their conclusion and shall not be enforceable.

Article 14. Evacuation of citizens from the temporarily occupied territory of Ukraine

14.1. Determining the legal status and ensuring the rights of internally displaced persons from the temporarily occupied territory of the Autonomous Republic of Crimea shall be carried out in accordance with the procedure established by the Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons".

14.2. During the period of temporary occupation, an internally displaced person from the temporarily occupied territory of the Autonomous Republic of Crimea shall be released from the obligation to repay the principal amount of the mortgage loan and accrued interest if the object of the mortgage is property located (registered) in the territory after such mortgage agreement was temporarily occupied. The National Bank of Ukraine decides to change the classification of such mortgage loans or other decisions in order to prevent deterioration of liquidity (financial condition) of the lender.

The norms of this paragraph do not apply to immovable residential property, the total area of which exceeds the indicators established by Article 265 of the Tax Code of Ukraine.

A citizen of Ukraine who leaves the temporarily occupied territory of the Autonomous Republic of Crimea outside the state border of Ukraine to a place of permanent residence or changes his citizenship shall not be subject to the provisions of this paragraph.

{Article 14 as amended by Law № 1706-VII of October 20, 2014 }

Article 15. Evacuation of business from the temporarily occupied territory of Ukraine

15.1. To any legal entity - resident of Ukraine, which changes (changed) its location from the temporarily occupied territory to another territory of Ukraine:

a) written off tax debt, the amount of deferred (deferred) monetary liabilities for any taxes (fees, mandatory payments) that have arisen since the temporary occupation.

Taxpayers who at the beginning of the temporary occupation were located in the Autonomous Republic of Crimea and the city of Sevastopol, starting from the 1st day of the month in which the temporary occupation begins, are not subject to financial sanctions, penalties and fines for violation of submission, calculation, the correctness of filling out tax returns and the completeness of payment of taxes and fees allowed during economic activities in the Autonomous Republic of Crimea and the city of Sevastopol;

b) exemption from any taxation (including in accordance with Article 271 of the Customs Code of Ukraine) of fixed assets and low-value and perishable items belonging to legal entities that transfer their place of business from the temporarily occupied territory to another territory of Ukraine and exported for further use in economic activity, provided that such fixed assets were on the balance sheet of the enterprise as of January 1, 2014 in free circulation in Ukraine.

Such fixed assets may be alienated before their commissioning at a new location in another territory of Ukraine or within 12 months after such commissioning subject to payment of taxes, fees in accordance with Article 30 of the Tax Code of Ukraine;

c) it is allowed to include in the expenses for the purpose of corporate income tax:

duly confirmed expenses incurred in connection with the evacuation of fixed assets and stocks from the temporarily occupied territory to another territory of Ukraine;

100 percent depreciation of fixed assets evacuated from the temporarily occupied territory of Ukraine and put into operation in another territory of Ukraine.

15.2. In the temporarily occupied territory of Ukraine, the rights to securities and rights to securities of issuers are protected and accounted for in accordance with the legislation of Ukraine, taking into account that:

a) acquisition and termination of rights to securities and rights to securities of issuers in the temporarily occupied territory of Ukraine, as well as their encumbrances or restrictions on circulation are subject to registration in another territory of Ukraine in the manner prescribed by the National Securities and Stock Market Commission ;

b) depository institutions registered in the temporarily occupied territory of Ukraine are obliged to undergo a simplified re-registration procedure in another territory of Ukraine in accordance with the procedure and deadlines established by the National Commission on Securities and Stock Market. The license of the depository institution that has not passed such a simplified procedure for re-registration within the prescribed period shall be deemed revoked;

c) the transfer of securities and / or rights to securities or rights to securities, if their recipient is a person who is or registered in the temporarily occupied territory of Ukraine, is carried out after full payment of these securities;

d) peculiarities of securities circulation, depository activity and activity of securities issuers located in the temporarily occupied territory of Ukraine shall be determined by the National Commission on Securities and Stock Market.

During the temporary occupation:

a) The National Securities and Stock Market Commission has the right to suspend changes in the depository accounting system for securities of issuers registered in the temporarily occupied territory of Ukraine or owners of securities whose depository accounting is maintained by depository institutions in the temporarily occupied territory of Ukraine, in particular in case of detection of violations of the norms of this Law;

b) it is prohibited to hold general meetings of shareholders and owners of corporate rights and other meetings of management bodies of joint-stock companies and other companies in the temporarily occupied territory of Ukraine;

c) settlement of securities transactions (transfer of securities and / or rights to securities or rights to securities), if their acquirer is a person located (located) in the temporarily occupied territory of Ukraine, is carried out on the principle of delivery against payment, provided for in paragraph 18 of Article 1 of the Law of Ukraine "On the Depository System of Ukraine".

15.3. Any activity of state lottery operators is prohibited in the temporarily occupied territory of Ukraine.

A person is deprived of a license to issue and conduct lotteries if he is subject to the law on sanctions.

Section III
FINAL PROVISIONS

1. This Law shall enter into force on the day following the day of its publication.

2. The Law of Ukraine "On General Principles of Creation and Functioning of Special (Free) Economic Zones" shall apply in the part that does not contradict the norms of this Law.

3. Other laws of Ukraine shall apply taking into account the peculiarities established by this Law.

4. Recognize as invalid the Law of Ukraine "On the special regime of investment activity in the territories of priority development and the special economic zone" Port of Crimea "in the Autonomous Republic of Crimea".

5. To amend the following legislative acts of Ukraine:

1) Section VI "Final and Transitional Provisions" of the Budget Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2010, № 50-51, Art. 572) shall be supplemented with Clause 16 of the following content:

"16. To establish that for the period of the Law of Ukraine " On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine "the norms of this Code applicable to the Autonomous Republic of Crimea and the city of Sevastopol shall be applied in a special manner";

2) Subsection 10 of Section XX "Transitional Provisions" of the Tax Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2011, № 13-17, Art. 112) shall be supplemented with Clause 26 of the following content:

"26. For the period of the Law of Ukraine " On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine "this Code is applied taking into account the peculiarities of the Law of Ukraine" On Creating a Free Economic Zone " temporarily occupied territory of Ukraine ";

3) Section XXI "Final and Transitional Provisions" of the Customs Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2012, №№ 44-48, Art. 552) shall be supplemented with paragraphs 5^{1} of the following content:

"$5^{1.}$ For the period of validity of the laws of Ukraine " On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine " and" On the Establishment of the Free Economic Zone of Crimea " Of the Code are applied taking into account these laws ";

4) paragraph 1 of Section II "Final and Transitional Provisions" of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine" (Vidomosti Verkhovnoi Rady Ukrainy, 2014, № 26, p. 892) add the words " and shall cease to have effect from the moment the temporarily occupied territory is returned to the general jurisdiction of Ukraine, subject to prior and full compensation for the damage caused by such temporary occupation, including moral damages to forcibly displaced persons ";

5) subparagraph "d" of paragraph 4 of Article 5 of the Decree of the Cabinet of Ministers of Ukraine "On the system of currency regulation and currency control" (Vidomosti Verkhovnoi Rady Ukrainy, 1993, № 17, p. 184) shall be worded as follows:

"d) the use of foreign currency on the territory of Ukraine as a means of payment or as collateral, except for payment in foreign currency for goods, works, services and wages in the temporarily occupied territory of Ukraine";

6) part one of Article 11 of the Law of Ukraine "On Chambers of Commerce and Industry of Ukraine" (Vidomosti Verkhovnoi Rady Ukrainy, 1998, № 13, p. 52) shall be supplemented with a new paragraph after the seventh paragraph as follows:

"The Chamber of Commerce and Industry of Ukraine and the Chambers of Commerce and Industry of Ukraine are involved in providing expert opinions on the origin of goods in cases where, in accordance with international treaties of Ukraine, the authority to issue certificates of origin is provided by the customs authority. conclusions shall be established by the Cabinet of Ministers of Ukraine ".

In this connection, the eighth to sixteenth paragraphs shall be considered as the ninth to seventeenth paragraphs, respectively;

7) in the Law of Ukraine "On State Lotteries in Ukraine" (Vidomosti Verkhovnoi Rady Ukrainy, 2013, № 30, p. 369):

the first part of Article 8 shall be supplemented with paragraph 4 as follows:

"4) the lottery operator does not meet the requirements established by the Law of Ukraine" On the establishment of a free economic zone "Crimea" and on the peculiarities of economic activity in the temporarily occupied territory of Ukraine ";

the fifth part of Article 13 shall be supplemented with the words "and the Law of Ukraine" On the Establishment of a Free Economic Zone "Crimea" and on the Peculiarities of Economic Activity in the Temporarily Occupied Territory of Ukraine ";

8) Section VIII "Final and Transitional Provisions" of the Law of Ukraine "On Collection and Accounting of the Single Contribution for Compulsory State Social Insurance" (Vidomosti Verkhovnoi Rady Ukrainy, 2011, № 2-3, Art. 11 as amended) shall be supplemented paragraphs 9^{3} of the following content:

"$9^{3.}$ Temporarily for the period of the special legal regime defined by the Law of Ukraine " On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine ", the application of single contribution to payers located in the temporarily occupied territory of Ukraine norms of Articles 25 and 26 of this Law.

Tax information on the amounts of arrears of single contribution payers specified in the first paragraph of this paragraph shall be stored and processed in the information databases of the supervisory authorities in a separate (off-balance sheet) manner. "

6. Within 30 days from the date of entry into force of this Law:

1) the Cabinet of Ministers of Ukraine:

to adopt normative legal acts arising from this Law and to notify the interested parties about the special procedure for crossing the administrative border of the FEZ "Crimea", including during the temporary occupation;

make a decision on consumer protection in connection with the possible revocation of the license to issue and conduct lotteries, which does not meet the requirements of this Law;

to make a decision on establishing the rules of calculation, granting benefits provided for in subparagraph 14.3 of Article 14 of this Law;

2) The National Bank of Ukraine, central executive bodies, the National Securities and Stock Market Commission shall adopt relevant acts arising from the provisions of this Law.

President of Ukraine **P.POROSHENKO**

Kyiv
, August 12, 2014
№ 1636-VII

Annex 91

Law of Ukraine No. 145-VIII "On Education" (5 September 2017)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

LAW OF UKRAINE

About education

(Vidomosti Verkhovnoi Rady (VVR), 2017, № 38-39, p.380)

{The law is recognized as in accordance with the Constitution of Ukraine (is constitutional), in accordance with the Decision of the Constitutional Court № 10-r / 2019 of 16.07.2019 }

{With changes made in accordance with Laws
№ 2657-VIII of 18.12.2018 , VVR, 2019, № 5, Article 33
№ 2661-VIII of 20.12.2018 , VVR, 2019, № 5, Article 35
№ 2704-VIII from 25.04.2019 , VVR, 2019, № 21, art.81
№ 2745-VIII from 06.06.2019 , VVR, 2019, № 30, art.119
№ 392-IX from 18.12.2019 , VVR, 2020, № 24, Article 170
№ 463-IX of 16.01.2020 , VVR, 2020, № 31, Article 226
№ 540-IX of 30.03.2020 , VVR, 2020, № 18, Article 123
№ 725-IX of 18.06.2020 , VVR, 2020, № 46, Article 395
№ 910-IX of 17.09.2020 , VVR, 2020, № 51, Article 491
№ 978-IX of 05.11.2020
№ 1357-IX of 30.03.2021 , VVR, 2021, № 29, p.234
№ 1369-IX from 30.03.2021
№ 1557-IX from 17.06.2021 , VVR, 2021, № 35, p.296
№ 1658-IX from 15.07.2021 , VVR, 2021, № 45, p.363
№ 1709-IX from 07.09.2021 , VVR, 2021, № 47, st.384
№ 1838-IX from 02.11.2021 , VVR, 2022, № 3, st.10
№ 2126-IX from 15.03.2022 }

Education is the basis of intellectual, spiritual, physical and cultural development of the individual, its successful socialization, economic well-being, the key to the development of a society united by common values and culture, and the state.

The purpose of education is the comprehensive development of man as a person and the highest value of society, its talents, intellectual, creative and physical abilities, the formation of values and competencies necessary for successful self-realization, education of responsible citizens who are able to make conscious social choices. and society, enriching on this basis the intellectual, economic, creative, cultural potential of the Ukrainian people, raising the educational level of citizens to ensure sustainable development of Ukraine and its European choice.

This Law regulates public relations arising in the process of exercising the constitutional human right to education, the rights and obligations of individuals and legal entities involved in the exercise of this right, and determines the competence of state and local governments in education.

Section I
GENERAL PROVISIONS

Article 1. Basic terms and their definitions

1. In this Law, the terms are used in the following meaning:

1) autonomy - the right of the subject of educational activity to self-government, which consists in its independence, independence and responsibility in making decisions on academic (educational), organizational, financial, personnel and other issues of activities carried out in the manner and within the limits prescribed by law ;

2) academic freedom - independence and autonomy of participants in the educational process during pedagogical, scientific-pedagogical, scientific and / or innovative activities carried out on the principles of freedom of speech, thought and creativity, dissemination of knowledge and information, free publication and use of research results subject to restrictions established by law;

2[1]) safe educational environment - a set of conditions in the educational institution that prevent participants in the educational process of physical, property and / or moral damage, in particular due to non-compliance with sanitary, fire and / or building codes and regulations, cybersecurity legislation, personal data protection, security and quality of food and / or provision of poor nutrition services, through physical and / or psychological violence, exploitation, discrimination on any grounds, humiliation, honor, dignity, business reputation (including bullying, harassment, dissemination of false information, etc.) , propaganda and / or agitation, including the use of cyberspace, as well as prevent the use of alcoholic beverages, tobacco products, narcotic drugs on the territory and in the premises of the educational institution,psychotropic substances;

{Part one of Article 1 is supplemented by paragraphs 2[1] in accordance with Law № 1658-IX of 15.07.2021 }

3) free education - education obtained by a person at the expense of state and / or local budgets in accordance with the law;

Article 6. Principles of state policy in the field of education and principles of educational activity

1. The principles of state policy in the field of education and the principles of educational activities are:

anthropocentrism;

Rule of Law;

ensuring the quality of education and the quality of educational activities;

ensuring equal access to education without discrimination on any grounds, including on the basis of disability;

development of an inclusive educational environment, including in educational institutions that are most accessible and close to the place of residence of persons with special educational needs;

ensuring universal design and intelligent adaptation;

scientific nature of education;

diversity of education;

integrity and continuity of the education system;

transparency and publicity of making and implementing management decisions;

responsibility and accountability of education management bodies and educational institutions, other subjects of educational activity to society;

institutional separation of control (supervision) and support functions of educational institutions;

integration with the labor market;

inseparable connection with world and national history, culture, national traditions;

freedom in choosing the types, forms and pace of education, educational program, educational institution, other subjects of educational activity;

academic integrity;

academic freedom;

financial, academic, personnel and organizational autonomy of educational institutions within the limits specified by law;

humanism;

democracy;

unity of education, upbringing and development;

education of patriotism, respect for the cultural values of the Ukrainian people, its historical and cultural heritage and traditions;

formation of a conscious need to comply with the Constitution and laws of Ukraine, intolerance of their violation;

formation of respect for human rights and freedoms, intolerance of humiliation and physical or psychological violence, as well as discrimination on any grounds;

{Paragraph twenty-five of the first part of Article 6, as amended by Law № 463-IX of 16.01.2020 }

formation of civic culture and culture of democracy;

formation of a culture of healthy lifestyle, ecological culture and caring for the environment;

non-interference of political parties in the educational process;

non-interference of religious organizations in the educational process (except for the cases specified by this Law);

versatility and balance of information on political, ideological and religious issues;

public administration;

state-public partnership;

public-private partnership;

promoting lifelong learning;

integration into the international educational and scientific space;

intolerance of corruption and bribery;

accessibility for every citizen of all forms and types of educational services provided by the state.

2. Education in Ukraine should be built on the principle of equal opportunities for all.

Article 7. Language of education

1. The language of the educational process in educational institutions is the state language.

The state guarantees every citizen of Ukraine the right to receive formal education at all levels (preschool, general secondary, professional (vocational), professional higher and higher), as well as extracurricular and postgraduate education in the state language in state and municipal educational institutions.

Persons belonging to the national minorities of Ukraine are guaranteed the right to study in communal educational institutions for pre-school and primary education, along with the state language, the language of the respective national minority. This right is realized by creating in

accordance with the law separate classes (groups) with instruction in the language of the respective national minority along with the state language and does not apply to classes (groups) with instruction in the Ukrainian language.

Persons belonging to the indigenous peoples of Ukraine are guaranteed the right to study in communal educational institutions for pre-school and general secondary education, along with the state language, the language of the respective indigenous people. This right is exercised by creating in accordance with the law separate classes (groups) with instruction in the language of the relevant indigenous people of Ukraine along with the state language and does not apply to classes (groups) with instruction in the Ukrainian language.

Persons belonging to indigenous peoples, national minorities of Ukraine, are guaranteed the right to study the language of the indigenous people or national minority in public secondary schools or through national cultural societies.

Persons with hearing impairments are guaranteed the right to study in sign language and to study Ukrainian sign language.

2. Educational institutions shall provide compulsory study of the state language, in particular institutions of vocational (technical), professional higher and higher education - to the extent that allows to conduct professional activities in the selected field using the state language.

Persons belonging to indigenous peoples, national minorities of Ukraine, foreigners and stateless persons are provided with appropriate conditions for learning the state language.

3. The state promotes the study of languages of international communication, primarily English, in state and municipal educational institutions.

4. In accordance with the educational program, educational institutions may teach one or more subjects in two or more languages - the official language, English and other official languages of the European Union.

5. At the request of applicants for professional (vocational), professional higher and higher education, educational institutions create opportunities for them to study the language of the indigenous people, the national minority of Ukraine as a separate discipline.

6. The state shall promote the establishment and functioning abroad of educational institutions in which education is conducted in the Ukrainian language or the Ukrainian language is studied.

7. Peculiarities of the use of languages in certain types and at certain levels of education are determined by special laws.

Article 8. Types of education

1. A person exercises his or her right to lifelong learning through formal, non-formal and informal education. The state recognizes these types of education, creates conditions for the development of subjects of educational activity that provide relevant educational services, and encourages the acquisition of education of all kinds.

2. Formal education is education obtained according to educational programs in accordance with the levels of education, fields of knowledge, specialties (professions) and provides for the achievement by students of educational standards defined by educational standards of learning and qualifications recognized by the state.

3. Non-formal education is education that is usually obtained through educational programs and does not involve the award of state-recognized educational qualifications by level of education, but may result in the award of professional and / or partial educational qualifications.

4. Informal education (self-education) is education that involves self-organized acquisition of certain competencies by a person, in particular during daily activities related to professional, social or other activities, family or leisure.

5. Learning outcomes obtained through non-formal and / or informal education shall be recognized in the formal education system in accordance with the procedure established by law.

Article 9. Forms of education

1. A person has the right to receive education in various forms or a combination of them.

The main forms of education are:

institutional (full-time, full-time, part-time, network);

individual (external, family) (home), pedagogical patronage, in the workplace (at work);

dual.

2. Full-time (day, evening) form of education is a way of organizing the training of students, which involves their direct participation in the educational process.

3. Part-time form of education is a way of organizing the training of students by combining full-time form of education during short sessions and self-mastery of the educational program in between.

4. Distance form of education is an individualized process of education, which occurs mainly through the indirect interaction of distant participants in the educational process in a specialized environment that operates on the basis of modern psychological, pedagogical and information and communication technologies.

5. Network form of education is a way of organizing the training of students, through which the mastery of the educational program is with the participation of various subjects of educational activities, interacting with each other on a contractual basis.

6. External form of education (externship) is a way of organizing the training of students, according to which the educational program is fully mastered by the applicant independently, and evaluation of learning outcomes and awarding educational qualifications are carried out in accordance

the first part after the word "competitiveness" to add the words "institutions of specialized education of scientific profile (scientific lyceums, scientific boarding schools)";

the second paragraph of the third part shall be supplemented with the words "as well as institutions of specialized education of scientific profile (scientific lyceums, scientific lyceums-boarding schools)".

5. To recommend to the founders of educational institutions to bring the constituent documents of educational institutions into compliance with this Law within five years.

6. The Cabinet of Ministers of Ukraine:

1) ensure the gradual implementation of the second part of Article 61 of this Law by 2023, providing for an annual increase in the salary of the lowest qualified teacher to four subsistence minimums for able-bodied persons in proportion to the increase in revenues of the State Budget of Ukraine compared to the previous year; salary schemes (salary rates);

2) within one year from the date of entry into force of this Law:

to prepare and submit for consideration to the Verkhovna Rada of Ukraine proposals on bringing the laws of Ukraine into compliance with this Law;

prepare and submit to the Verkhovna Rada of Ukraine a draft law on professional higher education;

to prepare and submit for consideration to the Verkhovna Rada of Ukraine draft laws on amendments to the Tax and Customs Codes of Ukraine in order to exempt educational and scientific institutions from taxation, payment of customs duties and fees for training, scientific and production equipment and supplies moving across the customs border Ukraine for educational and scientific purposes;

to ensure the development of methods for regulatory financing of educational institutions;

to establish the National Agency for Qualifications;

to bring their normative legal acts in compliance with this Law, to ensure the bringing of normative legal acts of ministries and other central executive bodies in accordance with this Law;

to ensure the adoption of regulations provided by this Law;

3) within six months from the date of entry into force of this Law:

to prepare and submit to the Verkhovna Rada of Ukraine a draft law on the national qualifications system with the involvement of a joint representative body of employers at the national level and a joint representative body of trade unions at the national level, professional associations of the national level;

to establish on the basis of the State Inspectorate of Educational Institutions of Ukraine the State Service for Educational Quality and its territorial bodies.

President of Ukraine **P.POROSHENKO**

Kyiv
, September 5, 2017
№ 2145-VIII

Annex 92

Law of Ukraine No. 463-IX "On Complete General Secondary Education"
(16 January 2020)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

LAW OF UKRAINE

About complete general secondary education

(Information of the Verkhovna Rada (VVR), 2020, № 31, p. 226)

{With changes made in accordance with Laws
№ 764-IX of 13.07.2020 , VVR, 2020, № 48, Article 431
№ 1385-IX of 13.04.2021 , VVR, 2021, № 27, Article 227
№ 1658-IX from 15.07.2021 , VVR, 2021, № 45, art.363
№ 1709-IX from 07.09.2021
№ 1839-IX from 02.11.2021 }

This Law defines the legal, organizational and economic principles of functioning and development of the general secondary education system.

Section I
GENERAL PROVISIONS

Article 1. Basic terms and their definitions

1. For the purposes of this Law, the following terms are used in the following meaning:

1) safe educational environment - a set of conditions in the educational institution that prevent participants in the educational process of physical, property and / or moral damage, in particular due to non-compliance with sanitary, fire and / or construction norms and rules, cybersecurity legislation, personal data protection, food safety and / or the provision of poor nutrition services through physical and / or psychological violence, exploitation, discrimination on any grounds, humiliation, dignity, business reputation (bullying, dissemination of false information, etc.), propaganda and / or agitation, including with the use of cyberspace, as well as make it impossible to use alcoholic beverages, tobacco products, drugs, psychotropic substances on the territory of the educational institution;

2) state standards of complete general secondary education (hereinafter - state standards) - documents that determine the total amount of study load of applicants for primary, basic secondary, specialized secondary education, requirements for their competencies and to compulsory learning outcomes grouped by relevant educational fields, which they must achieve at the appropriate level of complete general secondary education;

3) access to complete general secondary education - a set of conditions that meet the educational needs of individuals and provide each person with the opportunity to obtain complete general secondary education in accordance with state standards, including the availability of sufficient educational institutions providing free general secondary education, non-discrimination on any grounds or circumstances, providing support to students in the educational process;

4) general secondary education institution - a legal entity whose main activity is educational activity carried out at a certain level (levels) of complete general secondary education;

5) educational institution that provides a complete general secondary education (hereinafter - an educational institution), - an institution of general secondary education or an institution of professional (vocational), professional higher or higher education, which conducts educational activities at a certain level (levels) of full general secondary education;

6) the founder of a general secondary education institution (hereinafter - the founder) - a public authority on behalf of the state, the relevant council on behalf of the territorial community (communities), natural and / or legal person, by decision and property of which otherwise acquired the rights and obligations of the founder in accordance with the law;

7) model curriculum - a document that determines the approximate sequence of achieving the expected learning outcomes of students, the content of the subject (integrated course) and types of educational activities of students, recommended for use in the educational process in the manner prescribed by law;

8) curriculum - a document that determines the sequence of students' learning outcomes in the subject (integrated course), a description of its content and types of educational activities of students indicating the approximate number of hours required for their implementation, and approved by the pedagogical council;

9) educational program of an educational institution - a document containing a set of educational components planned and organized by an educational institution to achieve students' expected learning outcomes defined by this program, which is developed and approved in accordance with this Law;

10) boarding house - a structural unit of an educational institution that provides accommodation and maintenance of students in accordance with the law;

11) pedagogical internship - a system of measures aimed at supporting a pedagogical employee of an educational institution appointed for the first time, in conducting pedagogical activities and acquiring (improving) his professional skills;

12) complete general secondary education - a set of learning outcomes and competencies acquired by a person at the levels of primary, basic secondary and specialized secondary education, systematized and provided for by the relevant state standards;

formation of students' competencies defined by the Law of Ukraine "On Education" and state standards.

3. State policy and educational activities in the field of general secondary education are based on the principles and principles defined by the Law of Ukraine "On Education".

Article 4. Levels, terms and forms of obtaining general secondary education

1. Complete general secondary education is obtained at the following levels:

primary education - the first level of complete general secondary education, which involves the student's compliance with the requirements for learning outcomes defined by the state standard of primary education;

basic secondary education - the second level of complete general secondary education, which involves the student's compliance with the requirements for learning outcomes defined by the state standard of basic secondary education;

profile secondary education - the third level of complete general secondary education, which involves the student's compliance with the requirements for learning outcomes defined by the state standard of specialized secondary education.

2. In educational institutions:

primary education is obtained within four years;

basic secondary education is obtained within five years;

specialized secondary education is obtained within three years.

The duration of complete general secondary education at each level can be changed (extended or shortened) depending on the form of education, learning outcomes and / or individual educational trajectory of the student.

The Cabinet of Ministers of Ukraine shall determine the duration of full general secondary education at each of its levels by persons with special educational needs in general secondary education institutions.

3. Complete general secondary education may be obtained by full-time (distance), distance, network, external, family (home) forms or form of pedagogical patronage, as well as full-time (evening), correspondence forms (at the levels of basic and specialized secondary education). Profile secondary vocational education can be obtained in the dual form of education.

Regulations on the forms of obtaining general secondary education are approved by the central executive body in the field of education and science.

Article 5. Language of education in general secondary education institutions

1. The language of the educational process in general secondary education institutions is the state language.

Everyone who receives a complete general secondary education in an educational institution studies the state language in this institution in accordance with state standards.

2. Every student is guaranteed the right to complete general secondary education in the state language in state, municipal and corporate educational institutions, provided by organizing the teaching of all subjects (integrated courses) in the state language, except as provided by this Law.

3. Persons belonging to the indigenous peoples or national minorities of Ukraine shall be guaranteed and guaranteed the right to study the language of the respective indigenous people or national minority in state, municipal and corporate institutions of general secondary education or through national cultural societies.

4. Persons belonging to the indigenous peoples of Ukraine have the right to receive a complete general secondary education in a state, municipal or corporate educational institution in the language of the respective indigenous people along with the state language.

5. Persons belonging to the national minorities of Ukraine have the right to receive primary education in a state, municipal or corporate educational institution in the language of the respective national minority along with the state language.

6. Persons belonging to the national minorities of Ukraine whose languages are the official languages of the European Union and who exercise the right to study in the relevant languages in state, municipal or corporate educational institutions shall obtain:

basic secondary education in the state language in the amount of not less than 20 percent of the annual amount of study time in the 5th grade with an annual increase of such amount (not less than 40 percent in the 9th grade);

profile secondary education in the state language in the amount of not less than 60 percent of the annual study time.

Persons belonging to other national minorities of Ukraine receive at the state, municipal or corporate educational institutions basic and specialized secondary education in the state language in the amount of not less than 80 percent of the annual amount of study time.

The list of subjects (integrated courses) studied in the state language and the language of a national minority is determined by the educational program of the educational institution in accordance with the requirements of state standards and taking into account the peculiarities of the language environment.

7. The right to education in the language of the indigenous people or national minority of Ukraine along with the state language is exercised in separate classes with education in the relevant language, which are opened in accordance with the requirements of this Law.

President of Ukraine **V. ZELENSKY**

Kyiv
, January 16, 2020
№ 463-IX

Annex 93

Resolution of the Verkhovna Rada of Ukraine No. 2077-IX "On Certain Issues of Protection of the Right to Freedom of Conscience and Religion of Believers of the Crimean Eparchy of the Ukrainian Orthodox Church (Orthodox Church of Ukraine) and Preservation of the Premises of the Cathedral of St. Volodymyr and St. Olha"
(17 February 2022)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

RESOLUTION

of the Parliament of Ukraine
(the Verkhovna Rada)

On Some Issues of Protection of the Right to Freedom of Thought and Religion of Believers of the Crimean Eparchy of the Ukrainian Orthodox Church (Orthodox Church of Ukraine) and Preservation of the Cathedral of Saints Prince Volodymyr and Princess Olga

Given the temporary occupation by the Russian Federation of an integral part of Ukraine - the Autonomous Republic of Crimea and the city of Sevastopol - which occupation was carried out as a result of armed aggression against Ukraine, in connection with systematic illegal actions of the Russian Federation against freedom of thought and religion of Ukrainian citizens, given the pressure from the Russian Federation on the religious community of the Crimean Eparchy of the Ukrainian Orthodox Church (Orthodox Church of Ukraine) and the Archbishop Clement of Simferopol and Crimea of the Ukrainian Orthodox Church (Orthodox Church of Ukraine), in order to preserve cultural values relevant to the formation of cultural space in the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol, as well as taking into account that in accordance with the Resolution of the Verkhovna Rada of Ukraine of 15 March 2014 No. 891-VII "On Early Termination of Powers of the Verkhovna Rada of the Autonomous Republic" the powers of the Verkhovna Rada of the Autonomous Republic of Crimea have been prematurely terminated, the Verkhovna Rada of Ukraine **resolves:**

1. Temporarily, for the period of the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine", to transfer from the ownership of the Autonomous Republic of Crimea to state ownership part of the property complex with a total area of 1,475.7 square meters marked in the plan of household with letter "a", the building, located at 17 Sevastopolska street, Simferopol, 95015, namely the Cathedral of the Holy Equal-to-the-Apostles Prince Vladimir and Princess Olga.

2. The Cabinet of Ministers of Ukraine shall take measures to transfer the Cathedral of the Holy Equal-to-the-Apostles Prince Volodymyr and Princess Olga to state ownership.

3. This Resolution shall enter into force upon its adoption.

Chairman of the Verkhovna Rada of Ukraine **R. STEFANCHUK**

Kyiv
17 February 2022
No. 2077-GKh (in Ukrainian - No. 2077-ГХ)

Annex 94

Russian Federation, Federal Law No. 433-FZ of 28 December 2013, 'On Amendments to the Criminal Code of the Russian Federation'

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Article 280.1. Public calls for the implementation of actions aimed at violating the territorial integrity of the Russian Federation

Federal Law No. 433-FZ of December 28, 2013 supplemented Chapter 29 with Article 280.1, which comes into force on May 9, 2014.

Article 280.1 . Public calls for the implementation of actions aimed at violating the territorial integrity of the Russian Federation

See comments to Article 280.1 of the Criminal Code of the Russian Federation

Part 1 changed from December 19, 2020 - Federal Law of December 8, 2020 N 425-FZ
See previous edition

1. Public calls to carry out actions aimed at violating the territorial integrity of the Russian Federation, committed by a person after he has been brought to administrative responsibility for a similar act within one year, -

shall be punishable by a fine in the amount of 200 thousand to 400 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of one to two years, or by compulsory labor for a term of up to three years, or by arrest for a term of four to six months, or by deprivation freedom for up to four years with the deprivation of the right to hold certain positions or engage in certain activities for the same period.

Federal Law No. 274-FZ of July 21, 2014 reworded Part 2 of Article 280.1
See the text of the part in the previous edition

2. The same acts committed with the use of mass media or electronic or information and telecommunication networks (including the Internet), -

shall be punishable by compulsory works for a term of up to 480 hours, with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years, or imprisonment for a term of up to five years, with deprivation of the right to occupy certain positions or engage in certain activities for a term of up to three years.

Annex 95

Russian Federation, Federal Law No. 299-FZ of 31 July 2020, 'On Amendments to Article 1 of the Federal Law "On Counteracting Extremist Activity"'

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Federal Law No. 299-FZ of July 31, 2020 "On Amendments to Article 1 of the Federal Law "On Counteracting Extremist Activity"

Adopted by the State Duma on July 22, 2020

Approved by the Federation Council on July 24, 2020

Include in the second paragraph of paragraph 1 of Article 1 of the Federal Law of July 25, 2002 N 114-FZ "On counteracting extremist activity" (Sobranie Zakonodatelstva Rossiyskoy Federatsii, 2002, N 30, Art. 3031; 2006, N 31, Art. 3447, 3452 ; 2007, N 31, item 4008; 2012, N 53, item 7580; 2014, N 30, item 4237; 2019, N 49, item 6980) change, replacing the words "and violation of the integrity of the Russian Federation" with the words " and (or) violation of the territorial integrity of the Russian Federation (including the alienation of a part of the territory of the Russian Federation), with the exception of the delimitation, demarcation, redemarcation of the State Border of the Russian Federation with neighboring states.

President of Russian Federation V. Putin

Moscow Kremlin
July 31, 2020
N 299-FZ

Annex 96

Supreme Court of the Republic of Crimea, Case No. 1-11/2020, Decision, 10 December 2020 (Ukraine's Additional Translation of Russia's Counter-Memorial Part I, Annex 430)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

DECISION
in the Name of the Russian Federation

10 December 2020 Simferopol

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In addition, Islyamov L.E. on September 08, 2015, while at the "Ukrainian Crisis Media Center" located at the address: Ukraine, Kiev, Khreshchatyk str., 2, taking part in a press conference entitled "Civil blockade of Crimea", acting intentionally, motivated by political hostility towards the Russian Federation and the fact that the Republic of Crimea became part of it as a new subject of the Russian Federation, imbued with a persistent hostile and intolerant attitude towards the Russian Federation, realizing the criminal nature of their actions, in order to publicly influence the consciousness and will of an unlimited circle of people, as well as inducing them to carry out extremist actions, in violation of Federal Law No. 25.07.2002114-FZ "On Countering extremist Activities", publicly, in the presence of representatives of the Ukrainian TV channel "5" and the Ukrainian Crimean Tatar TV channel "ATR", which are mass media, appealed to the violation of the territorial integrity of the Russian Federation with the following content."..If we are a state, and if the community has a demand for its statehood, the Crimea, gentlemen, must be returned. Therefore, I am glad that I was one of those who made the decision on the blockade, that Ukraine, as a state, joins the sanctions of the leaders of the Crimean Tatar people, global sanctions against Crimea. I'm glad of that. I believe that this is the headquarters that has just been announced, which will be held at 22 Sedovtseva street, I call on all patriots, Ukrainians, it doesn't matter, these are Crimean Tatars, everyone, everyone who is rooting for the statehood of Ukraine, everyone who believes that Ukraine should have statehood, without Crimea, Ukraine will not have statehood. Therefore, I urge all patriots to come to 22 Sedovtseva street - there will be a headquarters, we will prepare this action together with all the patriots of Ukraine.", which contain statements calling for the implementation of actions aimed at violating the integrity of the Russian Federation, including, rejection (separation) of the Republic of Crimea from the Russian Federation and accession to Ukraine.

In the future, no later than September 10, 2015, the video materials of the specified television program with the speech of Islyamov L.E., containing calls for the implementation of actions aimed at violating the territorial integrity of the Russian Federation, were placed in free access on the information and telecommunication network "Internet" on the YouTube resource at: https://www.youtube.com/watch?v=PBPPjZ2uz-M&feature=youtu.be. under the title "Crimean Tatars block Crimea on September 08, 2015" and on the website of the "Ukrainian Crisis Media Center" at: http://uacrisis.org/ru/33187-krimski-tatari, under the title "Civil blockade of Crimea. How it will look like. Ukrainian Crisis Media Center, 8-09-15", access to which has an unlimited circle of people, as well as those who enjoy mass attendance by citizens of Ukraine and residents of the Republic of Crimea.

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On November 21, 2015, Islyamov L.E., while on the territory of Ukraine, when taking part in a television interview entitled "Broadcast from the Headquarters of the Civil Blockade of the Crimea. November 21, 2015" of the Ukrainian Crimean Tatar TV channel "ATR", which is a mass media, acting intentionally, motivated by political hostility towards the Russian Federation and the fact of the Republic of Crimea joining it as a new subject of the Russian Federation, imbued with a persistent hostile and intolerant attitude towards the Russian Federation, realizing the criminal nature of his actions, intending to publicly influence the consciousness and will of an unlimited circle of people, as well as to induce them to carry out extremist actions, in violation of Federal Law No. 114-FZ of July 25, 2002 "On Countering Extremist Activities", publicly appealed for the violation of the territorial integrity of the Russian Federation as follows: "... We want political prisoners to be released. I know what the government is watching right now,

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You are deeply mistaken. You, the Crimean Tatars, must liberate your homeland, with your chest, with your face, with your head held high. We must enter the Crimea. Yes, a part of us will suffer from this. I won't say how, but that's not the question, the question is that we will all have the honor to be remembered in history. ..... Get up those people who think the same way as I do, get up from the sofas and be next to us here, as here we are “buryat”, “peaceful”, and we. Ukrainians, I am also addressing you, do not leave us, be with us always, we must make Ukraine together, we must make a new Crimea together, after we liberate it. We have no doubts that we will liberate it. We are already free now, because this is a free country, free Ukraine. Together we will make a new country....", which contain linguistic signs of motivation on the part of Islyamov L.E. to violate, change the territorial borders of the Russian Federation (the return of Crimea to Ukraine by committing unspecified violent actions).

No later than November 23, 2015, the video materials of the mentioned television interview of Islyamov L.E. titled "Broadcast from the Headquarters of the Civil Blockade of Crimea. November 21, 2015", containing calls for actions aimed at violating the territorial integrity of the Russian Federation, were posted on the Internet information and telecommunications network at the following addresses:

https://www.youtube/com/watch?v= KFT8AF5Zfs and

https://atr.ua/ru/ncws/48/vklucenic-iz-staba-grazdanskoj-blokady-kryma-211115, to which an unlimited number of people have access and which are pupular among citizens of Ukraine and residents of the Republic of Crimea.

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He, no later than December 20, 2015, while on the territory of Ukraine, when taking part in a television program conducted as part of a live broadcast on the Ukrainian TV channel 112 Ukraine, which is a mass media, acting intentionally, motivated by political hostility towards the Russian Federation and the fact that the Republic of Crimea became part of it as a new subject of the Russian Federation, imbued with a persistent hostile and intolerant attitude towards the Russian Federation, aware of the criminal nature of their actions, aiming to publicly influence the consciousness and will of an unlimited circle of people, as well as inducing them to carry out extremist actions, in violation of Federal Law No. 114-FZ of 25.07.2002 "On Countering Extremist Activity", publicly appealed for the violation of the territorial integrity of the Russian Federation, as follows: "... We already have more than a hundred people who have already joined the battalion. So far it is being created on a voluntary basis... ... we hope that after all, the Ministry of Defense of the Armed Forces of Ukraine .... will do and allow the Crimean Tatars to have their own national battalion inside the armed forces of Ukraine. The battalion that will be trained on the administrative border with Crimea, and the one that, together with all of Ukraine, will be in the forefront of liberating Crimea, will enter Crimea. And then it will carry all the military, so to say, services that they have to carry here, the Crimean Tatars inside the armed forces of Ukraine when in Crimea, protecting the border of Ukraine, the one that is the real border. ... . I'm saying that we, as Crimean Tatars, should do everything.. that i connected with the liberation of our motherland. Our homeland is Crimea. ... Therefore, we will be here and we will do everything possible to complicate the life of the occupier who is on our territory, who has seized our territories. Therefore, we are here for this and we will create a battalion in order to carry out certain operations, so that the occupier does not dig in there....so that he does not suddenly become so bored and sad there that Ukraine does nothing in terms of the liberation of Crimea. We will do it, we are starting and we are doing it now... ....We believe that the electricity should not be supplied to Crimea in any way. And Ukraine should not do this. Yes, if only in one case Mustafa Dzhemilev left the possibility of

supplying electricity to the Crimea. Where it will be written that electricity shall be supplied to Crimea, to the occupied Crimea, which territory must under the Geneva Convention... be supported by the occupying country, ... Then at least we will really know that we are doing this for the sake of citizens, and not for the sake of the occupiers who are building on our electricity, building military units for themselves, digging in, equipping and building their mobile networks... I think that the electricity will no longer be supplied starting from January 1... I don't know, I don't know, maybe explosions, maybe they'll just fall on their own. ... now the Law, Decree 4032a "On the free economic zone in Crimea" is working. Therefore, both the border guards, and the SBU, and the police, and anyone else, in the legislative field cannot do anything with the cargo that moves across the administrative border to the Crimea," which contain public calls for armed action, which imply a violent breach of the integrity of the Russian Federation.

In the future, on December 20, 2015, the video materials of this interview with the speech of Islyamov L.E., containing calls for actions aimed at violating the territorial integrity of the Russian Federation, were freely available on the Internet information and telecommunications network on the YouTube resource (https://www.youtube.com) under the title "Islyamov about the Crimean- Tatar battalion, energy blockade and smuggling", to which an unlimited number of people have access and which is also popular among citizens of Ukraine and residents of the Republic of Crimea.

Also, Islyamov L.E., no later than December 28, 2015, while on the territory of Ukraine, when taking part in a television program conducted as part of a live broadcast on the Ukrainian TV channel Newsone, which is a mass media, acting intentionally, motivated by political hostility towards the Russian Federation and the fact that the Republic of Crimea became part of it as a new subject of the Russian Federation, imbued with a persistent hostile and intolerant attitude towards the Russian Federation, aware of the criminal nature of their actions, aiming to publicly influence the consciousness and will of an unlimited circle of people, as well as inducing them to carry out extremist actions, in violation of Federal Law No. 114-FZ of 25.07.2002 "On Countering Extremist Activity", publicly appealed for the violation of the territorial integrity of the Russian Federation, as follows: "... We will call the battalion that will be on the border after Noman Chelebidzhikhan, that mufti, the first chairman of the Mejlis of the Crimean Tatar people, ... This is our... Crimean Tatar patriot, who was so ..., died as a warrior in full vigor. And we believe that we should bear his name when we return Crimea. Now what we have done, we have now called out to all those Crimean Tatars who are in mainland Ukraine to gather here. Every day we accept Crimean Tatars into the battalion, plus Ukrainians join us, who also want to be in this battalion. ... I hope that Ukraine will still give us, the Ministry of Defense will give us the number of the military unit, so that we, like the rest of Ukraine, can also be useful and necessary in the liberation of Crimea. By Crimea liberation soldiers. We call soldiers “askers” in the Crimean Tatar language, so here it is the asker battalion, which will stand here as a volunteer, and which will be the first to enter Crimea, as we believe, and we will be the first to take the fight when we liberate Crimea. With this volunteer battalion, we want the rest of Ukraine to feel our tragedy, which we are now experiencing, after the loss of Crimea, and in no way try to close from Crimea. We also want Ukraine to not to forget Crimea in any way or, even worse, not to reduce it to some international level and somehow pass the solution of this issue, transfer it to,... other countries. No one but us, the Ukrainians and Crimean Tatars themselves, will liberate Crimea. If we ourselves do not liberate it, if we ourselves do not deal with this, no one else will come to us and will not liberate it. Therefore, we are doing this, we are waiting for the number of the military unit from the Ministry of Defense and those people who will help us in every possible way, because we want it to be the armed forces of Ukraine, not ... the Ministry of Internal Affairs. And ... if the state

of Ukraine, represented by the Ministry of Defense, does not deem it necessary to see Crimean Tatars in its ranks as a separate battalion that we are preparing here, we will do it ourselves, because Crimea is our territory, and we will not allow anyone to decide the fate of Crimea without us, without the Crimean... We already... have about two hundred people on the list... one hundred and forty-seven to be exact. ... It is no longer on a national basis that everyone comes here, everyone feels like Crimean Tatars, no matter who they are by nationality. They come and say: "we want to serve in this battalion because we want to return Crimea back."... Here is..., our main message that we are now... But you probably know that we don't really like battalions in Ukraine now, actually, because somehow, I feel that they want ... all of this, quietly, to close this whole story and move this into political plane, and then just quietly move on to such European integration, already without Crimea, without Donbass. ... And you know what I'm talking about. But here is different story. It's a different story with the Crimean Tatars, that's why we are here... We have tacit consent, too, something from the guarantor of the Constitution, we understand. .... You know that there was a meeting, the day before yesterday there was a meeting of Turkish President Erdogan in Ankara... and together with our leader Mustafa Dzhemilev. And Erdogan also supported this idea, which was voiced by Mustafa Dzhemilev on the creation of this battalion, and even more I will tell you that we .... will now receive assistance from the Turkish government. Of course, they won't give us a uniform, clothes, weapons, until we have a military unit number, but everything is moving towards this, ..., slowly moving towards this. I think that we .... will make it so that we will stand here, and then with all our ... forces and means we will do so that the enemy does not calm down there on our territory. In order for him not to be bored there, we will entertain him in every possible way with our various things that we can do, because, if you remember, there were a lot of partisans in the Great Patriotic War in the Crimea. And, if you know that the partisans in the Crimea harmed the enemy a lot and made it so that he could never close his eyes calmly, so as to relax and feel that he had already achieved everything. So we'll make this enemy feel like it's time for him to get out of here. Let him go, take his suitcase, go to the train station, and get out of here to his Russia. Either alive, or in a zinc coffin, he will leave here... Yes, I have to tell you, we already have Turkish citizens in our battalion. There are already, and they are ready to fight for a free Ukraine and for the liberation... they will liberate Crimea with us. ..... Turkey did not allow military aircraft to fly over its territory, and did not allow even a meter of airspace to be violated. Do you know how many planes are flying over Crimea, military planes? And this is everything for us, our airspace, this is our land and our air, and everything on the ground and under water, everything is ours. ... we are standing next to each other now, we have the Sea of Azov on our left side. We see how Russian warships inspect, sail, violate all international treaties and sail, and search fishing schooners... They feel like masters here only because we can't fight them back in a certain way now. With this....it is necessary to end this because we have to deal with the liberation of the Crimea every day. We shoul be restoring our own Ukrainian dignity... Of course, this naval blockade is being prepared. The naval blockade is a separate project of Noman Celebijihan Battalion. A naval blockade is within this project. That is, this is a separate project that is being prepared, people are being formed, we buy uniforms, uniforms are brought to us. They bring us everything we need for the battalion. We are... getting ready... to get a military unit number... We have found several places where we can deploy, naturally, we expect from the armed forces of Ukraine that they can tell us how best to do it. How ... exactly the battalion will look like. In what format can we better be represented in the military units of Ukraine. To do this, we need to start such a dialogue .....", which contain public calls for armed actions, which imply the violent breach of the integrity of the Russian Federation as their result.

In the future, no later than December 28, 2015, the video materials of this interview with the speech of Islyamov L.E., containing calls for actions aimed at breaching the territorial

integrity of the Russian Federation, were freely available on the Internet on Youtube (http://www.youtube.com) under the title "Lenur Islyamov on the Crimean Tatar battalion in the Armed Forces of Ukraine December 20, 2015", which has access to an unlimited number of people and which is also popular among citizens of Ukraine and residents of the Republic of Crimea.

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The guilt of Islyamov L.E. in committing crimes under the circumstances established by the court was confirmed by the evidence examined at the court session, which were collected in accordance with the requirements of the law, permissible, relevant, consistent with each other and in their totality sufficient for a comprehensive and objective resolution of the case.

As regards the episode of public calls to commit actions aimed at violating the territorial integrity of the Russian Federation on September 08, 2015, the guilt of Islyamov L.E. is confirmed by the following evidence.

So, according to the testimony of the **witness Osmanov N.A.,** on the Internet he saw a video in which Islyamov L.E. at one of the press conferences, where Chubarov and Dzhemilev, who were previously representatives of the Crimean Tatar people in Crimea, also took part, called for the return of Crimea to Ukraine by force, it was about stopping or limiting the supply of electricity and food to Crimea. He (Osmanov) took such calls negatively.

From the testimony of **witness Nikolaenko M.N.** It follows that he is the General Director of LLC Crimean Information Company, which in turn is the founder of the information agency Kryminform. On September 08, 2015, a press conference was held at the Ukrainian Crisis Center. Islyamov also took part in it, it was about the upcoming civil blockade of the Crimea. The press conference lasted less than an hour, they talked about their upcoming actions, that on September 20 they were going to blockade Crimea, meaning the food blockade of Crimea. On September 8, 2015, the Kryminform website published news titled “Ukrainian people’s deputy, the Head of the Mejlis and the ex-vice prime minister of Crimea announced the start of a trade blockade of the Crimean peninsula in September”, in which Islyamov’s speech was indirectly quoted at this press release. conferences. The press conference was a public event and the statements of its participants violated the legislation of the Russian Federation. These were calls for de-occupation, the liberation of Crimea, and the violation of the constitutional order of the Russian Federation established at that time. This was the subject of the press conference.

Witness Kotranov A.N. stated that in 2015, before the power outage to Crimea, he watched an online broadcast in which Chubarov, Islyamov and Dzhemilev took part. During the conference, Islyamov said that it was necessary to turn off the electricity on the territory of the Republic of Crimea, turn off the water, in order to call on the masses of dissatisfied people so that Crimea was forced to return to Ukraine.

Witnesses Miller Ya.V. and Khamzin Sh.A. indicated about public appeals of Islyamov L.E. during a press conference at the "Ukrainian Crisis Media Center", which was also attended by such persons as Dzhemilev, Chubarov, about the forced return of the Republic of Crimea to Ukraine.

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Witness Maslennikov A.V. testified that he was invited by the operatives of the FSB of Russia in the Republic of Crimea and the city of Sevastopol to participate as a public representative in conducting a study of Youtube Internet resources. The study was conducted in the building of the Federal Security Service of Russia for the Republic of Crimea and the city of Sevastopol. The study was attended by a specialist and a second member of the public. After explaining to them the procedural rights and obligations, they proceeded to the study. He claimed that Lenur Islyamov, whom he had repeatedly seen in the media, was speaking on the video.

From the testimony of the witness Maslennikov A.V., read out at the court session on the basis of Part 3 of Article 281 of the Code of Criminal Procedure of the Russian Federation, who confirmed them in full, it follows that on October 22, 2015, a video with the title "Open dialogue with activists of the civil blockade of Crimea on October 10, 2015", at which Lenur Islyamov from the tent of the so-called "Headquarters of the civil blockade of Crimea" called for the return of Crimea to Ukraine. Later, it became clear to him that Lenur Islyamov was hostile to Russia, for which he began the blockade of the Crimea and cut off the electricity supply to the Crimea. (case file 98-100 volume 5).

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As regards the episode of public calls to commit actions aimed at violating the territorial integrity of the Russian Federation on November 21, 2015, the guilt of Islyamov L.E. is confirmed by the following evidence.

The protocol of inspection of objects, according to which 11.12.15 when viewing a file called "Broadcast from the Headquarters of the Civil Blockade of the Crimea. November 21, 2015", recorded on the optical disc "Verbatim DVD-R", serial number "ZE5820-DVD-J47F4", it was found that it contains a video appeal by Islyamov L.E., which begins with the words "... for you. We want political prisoners to be released..." and ends with the words "....we must make a new Crimea together after we liberate it. We have no doubts that we will liberate it. We are already free now, because this is a free country, free Ukraine. Together we will be making a new country. I'm switching...". (case file 137-139 volume 10)

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The guilt of Islyamov L.E. in committing by him on the 20th of December 2015 calls for actions aimed at violating the territorial integrity of the Russian Federation, committed with the use of mass media both to 112 Ukraine TV channel and to the Crimean News Agency (QHA) are confirmed by the following evidence.

From the testimony of witness **Shigapova A.S.** it follows that in the course of his public activities, the FSB officers asked him to watch 4 videos and evaluate them. The videos recorded the speech of Islyamov, whose identity he knows from the media, on a Ukrainian TV channel. Islyamov called for the liberation of Crimea, spoke about the power outage in Crimea due to the fact that "anything can happen to the power towers," and that he would form a volunteer battalion that would liberate Crimea. In addition, Islyamov said that they are waiting until they are officially registered in the structure of the Ministry of Internal Affairs of Ukraine, and if not, they will do whatever they want at the border. These videos were posted in the public domain on youtube. In his presence, the viewed videos were copied, saved to disk and sealed. He took Islyamov's words negatively, as they were calls that violate the legislation of the Russian Federation.

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As regards the episode of public calls no later than December 28, 2015 for the actions aimed at violating the territorial integrity of the Russian Federation, the guilt of Islyamov L.E. was confirmed by the following evidence.

According to **witness Shigapova A.A.**, he was engaged in social activities, interacted with the bodies of the Ministry of Internal Affairs, and coordinated various events with them. The FSB officers asked him to view four videos and give them an assessment. The video recordings showed a speech on a Ukrainian TV channel by citizen Islyamov, whose identity he knows from the media. Islyamov called for the liberation of Crimea, spoke about the power outage in Crimea due to the fact that "anything can happen to the power poles," and that he would form a volunteer battalion that would liberate Crimea. In addition, Islyamov said that they are waiting until they are officially registered in the structure of the Ministry of Internal Affairs of Ukraine, and if not, they will do whatever they want at the border. These videos were posted publicly on youtube, copied to certain addresses and saved to a disk that was sealed. He took these words negatively, since he knows that such calls violate the legislation of the Russian Federation. Several members of the public participated in the inspection. At the end of the inspection, the relevant documents were drawn up, which were signed by all participants, there were no comments on the preparation of documents.

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Taking into account the totality of the foregoing, the panel of judges concludes that the evidence presented has found its full confirmation of the guilt of Islyamov L.E. in making public appeals on September 8, 2015, October 17, 2015, November 21, 2015 and no later than December 20, 2015 (interview with 112 Ukraine TV channel and Crimean News Agency (QHA)) and no later than December 28 2015 to the actions aimed at violating the territorial integrity of the Russian Federation.

This is evidenced in its entirety by the testimony of witnesses Shigapov, Maslennikov, Miller, Khamzin, Kotranov and Nikolaenko, each of whom indicated that the appeals of Islyamov L.E. through the media, such as the Crimean Tatar channel "ATR", Ukrainian channels "5", "NewsOne", and subsequently published in the social network Internet caused them to feel the aggression of Islyamov L.E. towards the Russian Federation and his rejection of the fact that the Republic of Crimea became part of the Russian Federation. From the appeal of Islyamov L.E., reviewed by the said witnesses, it became clear to them that Islyamov L.E. calls on people to take action aimed at violating the territorial integrity of the Russian Federation and forcibly returning Crimea to another state.

The court has no grounds to question the reliability and objectivity of the testimonies of these witnesses, the witnesses are not persons interested in the outcome of the case, moreover, their testimonies regarding the subjective assessment of the appeals. of Islyamov L.E. fully agree with the conclusions of linguistic examinations No.10/113 dated April 01, 2016, No. 135 dated July 16, 2016, No. 1463/9-1 dated August 30, 2016, No. 3/396 dated August 14, 2017, conducted in the case, which conclusions established that the speeches of Islyamov L.E. at a press conference at the Ukrainian Crisis Media Center entitled "Civil Blockade of Crimea, how it will look like ...", in the television program "Open dialogue with activists of the civil blockade of Crimea ...", in the interview "Broadcast from the Headquarters of the Civil Blockade of Crimea ...", in the interview "Lenur Islyamov October 25, 2015" and "Islyamov about the Crimean Tatar battalion, energy blockade and smuggling", as well as in the interview "Lenur

Islyamov about the Crimean Tatar battalion in the Armed Forces of Ukraine ..." contain public calls for actions aimed at violating the territorial integrity of the Russian Federation.

There are no doubts about the reliability and objectivity of both these examinations and the complex photo-video-technical examinations carried out in the case, which established that the video materials contain an interview with Islyamov L.E.

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In view of the above, the panel of judges concludes that the guilt of Islyamov L.E. as regards episodes dated September 08, 2015, October 17, 2015, November 21, 2015, no later than December 20, 2015 (interview with 112 Ukraine TV channel and Crimean News Agency (QHA) and no later than December 28, 2015 in public calls to actions aimed at violating the territorial integrity of the Russian Federation and qualifies such actions Islyamova L.E. as follows:

- the episode of September 08, 2015 as public calls for actions aimed at violating the territorial integrity of the Russian Federation, committed using the media, that is, under part 2 of article 280.1 of the Criminal Code of the Russian Federation;

- the episode of October 17, 2015 as public calls for actions aimed at violating the territorial integrity of the Russian Federation, committed using the media, that is, under Part 2 of Article 280.1 of the Criminal Code of the Russian Federation;

- the episode of November 21, 2015 as public calls for actions aimed at violating the territorial integrity of the Russian Federation, committed using the media, that is, under part 2 of article 280.1 of the Criminal Code of the Russian Federation;

- the episode no later than December 20, 2015 (interview with the Crimean News Agency (QHA) as public calls for actions aimed at violating the territorial integrity of the Russian Federation, committed using the mass media, that is, under Part 2 of Article 280.1 of the Criminal Code of the Russian Federation;

- the episode no later than December 20, 2015 (interview to the 112 Ukraine TV channel) as public calls for actions aimed at violating the territorial integrity of the Russian Federation, committed with the use of mass media, that is, under Part 2 of Article 280.1 of the Criminal Code of the Russian Federation;

- the episode no later than December 28, 2015 as public calls for actions aimed at violating the territorial integrity of the Russian Federation, committed using the media, that is, under Part 2 of Article 280.1 of the Criminal Code of the Russian Federation.

The arguments of the defense regarding the fact that Islyamov L.E. expressed his personal point of view in these speeches, acted as a politician, the panel of judges finds it untenable, since according to the above episodes, the statements of Islyamov L.E. did not contain a statement of his point of view on the situation, but contained an appeal to the people with calls aimed at violating the territorial integrity of the Russian Federation, in violation of part 3 of article 4 of the Constitution of the Russian Federation, according to which the integrity and inviolability of the state is one of the foundations of its constitutional system, after which such calls were posted on the Internet to an indefinite circle of people to take actions aimed at violating the territorial integrity of the Russian Federation, namely: calls for the secession of the Republic of Crimea, which is part of the Russian Federation as its subject, in accordance with par. 1 of Part 1 of Article 65 of the Constitution of the Russian Federation, on the basis of the Agreement concluded on March 18, 2014 between the Russian Federation and the Republic of Crimea on the admission of the Republic of Crimea to the Russian Federation and the formation of new subjects within the Russian Federation, ratified on March 21, 2014 by the

Federal Law No. 36- FZ, from the Russian Federation and its accession to Ukraine.

Under such circumstances, the statements of Islyamov L.E. in the media cannot be recognized as expressing his point of view.

As regards the episode of the creation of an armed formation, not provided for by federal law, the guilt of Islyamov L.E. is supported by the following evidence.

Thus, witnesses **Ablyazimov E.Ya., Osmanov A.N., Zaytullaev S.-I.E., Abduvaliev S.E.** pointed out that since the end of 2015, on the territory of the Kherson region of Ukraine, in the area of the Chongar checkpoints, not far from the border between Russia and Ukraine, there were four military tents, as well as a checkpoint and a trailer in which people lived, which were part of the formation, which was originally created as the "Blockade of Crimea", and later became the basis of the military formation named after "Noman Chelebidzhikhan". The call-up to this military formation was carried out through the mass media by Islyamov L.E., who was personally present at the selection of members of the formation, repeatedly spoke to members of the formation, signed contracts with fighters. The contract was a standard document in which it was indicated that a soldier joining the battalion, after signing the contract, would be given a uniform, a monetary allowance of UAH 8,000, and the duties of the fighter were set out. The trailer housed the headquarters of Islyamov L.E., another tent housed the TV channel "ATR", press conferences were held in this tent, in which Islyamov L.E. participated. The soldiers were issued a reddish-sand-colored military uniform with a chevron on the sleeve in the form of a rider with a saber over his head and the inscription "Noman Chelebidzhikhan". Members of the formation were trained in military affairs, for this purpose, appropriate instructors for military training made visits. The number of the battalion was about 150 people. 10-15 people lived in tents. The battalion had a daily routine, the territory of the battalion was fenced off by appropriate trenches, which were built by members of the battalion. The battalion had its own household unit, a kitchen, where food was delivered. All members of the battalion, except for the personal guards of Islyamov L.E., were engaged in household chores - digging trenches in the form of trenches behind the tent city, helping cooks in the kitchen, carrying firewood, building.

All members of the battalion had call signs, names, surnames were hidden in order to avoid problems with relatives of the battalion members. The passports of the members of the battalion were taken away upon admission to the battalion.

By March 2016, the battalion consisted of 4 units: Chaplynka, Kalanchak, the headquarters section on Chongar, in which Islyamov L.E. himself was, and the ASKER unit, which was created in March 2016. Each division had its own location. In the ASKER division, they studied border management and, together with the border guards of Ukraine, were on duty daily at the border with Ukraine, inspecting cars. The ASKER unit had a black uniform.

In the unit located on Chongar, the first tent was a staff tent, in which meetings, press conferences, video filming were held; the second tent "No. 2", in which members of the formation were located; the third tent called "Texas" - young, newly arrived fighters were quarantined in it for two weeks; the fourth tent was called the "Thirteenth District". The dining room and utility rooms were located separately. The unit on Chongar was the headquarters, where all members of the battalion from other units gathered on holidays. There were also two checkpoints on Chongar - in front of the camp and behind it.

The battalion had two trailers: one contained uniforms, the second trailer was the headquarters of Islyamov, it was divided in half and ammunition and weapons were stored in one room of the trailer. The battalion was armed with AK-47 of 5.45 mm caliber in the amount of 28 pieces, AKM of 7.62 mm caliber; PCM in the amount of 6 pieces; RPG-18 in the amount of 10 pieces, RPG-26 in the amount of 11 pieces; AGS 17-1 piece; RPG 7 - 1 piece, a lot of F-

1 grenades.

On the territory of Chongar, behind the village, five homemade targets were located in an open-air field, shooting was carried out there.

The battalion was directly led by Islyamov's deputy, who had the call sign "Shamil".

There were armed posts along the perimeter of the battalion, at 16-00 there was a changing of the guards. "Shamil" was engaged in changing the guards and appointing them to posts. "Shamil" gave instructions to the members of the formation who was doing what.

Islyamov L.E. proclaimed that the purpose of the creation and functioning of the battalion was the armed seizure of the Republic of Crimea. Islyamov was the leader of the battalion, all members of the battalion had to obey him unquestioningly. Islyamov L.E. set tasks, gave instructions, including on the inspection of transport coming from Crimea. The soldiers of the battalion inspected the transport, checked the documents, they acted independently without the participation of law enforcement agencies.

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The arguments of the defense about the falsification of evidence in a criminal case and the coercion of witnesses to testify, which incriminate Islyamov L.E. in the creation of an illegal armed formation, with the lawyer's reference to the detention of witness Ilyasov R.R. since December 2015 and, consequently, to the untruthfulness of his testimony, are found by the panel of judges as unsupported. The said witness was taken into custody in another criminal case unrelated to the events in question in 2016, as stated by the witness himself. Moreover, there were no complaints from the witness Ilyasov R.R. regarding the influence exerted on him by the preliminary investigation authorities during his interrogation in this criminal case, and his statement that he was unreasonably convicted in another criminal case cannot testify to the untruthfulness of his testimony against Islyamov L.E.

Moreover, in the testimony of witness Ilyasov R.R. does not contain any new data that would not have been established from the testimony of other witnesses.

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According to the response of the Ministry of Foreign Affairs of the Russian Federation, the N. Chelebidzhikhan battalion is a non-governmental volunteer armed formation. This formation is independent and is not part of the structure of the Ministry of Defense, the Ministry of Internal Affairs or the National Guard of Ukraine. The purpose of the battalion, in addition to the blockade of the Crimea from the Ukrainian border, is also to fight, including armed, for the return of the peninsula to Ukraine. (case file 225-226, 233-234, 235 volume 11).

In accordance with **the results of the operational-search activity provided on the basis of the decision of January 18, 2016,** in the course of the operational-search measures “interrogation” and “inquiry”, carried out on behalf of the investigator on the performance of certain investigative actions, information was received that on December 26, 2015 during an interview with the TV channel "112 Ukraine" Islyamov L.E. announced the creation of a volunteer battalion named after N. Chelebidzhikhan. According to the operational information received, the battalion named after N. Chelebidzhikhan does not have a permanent place of deployment; persons wishing to become its members are located in private residential premises in the city of Genichesk, n.p. Novotroitskoye, Novoalekseevka, Chopgar, boarding houses "Azov" and "Brigantina". According to Islyamov L.E. the strength of the paramilitary unit is currently 250 people. Financing of the battalion named after N. Chelebidzhikhan is carried out at the expense of voluntary donations of citizens, members of the Mejlis living in Ukraine and the Crimean Tatar communities of Turkey. The incoming data indicate that some members of

the paramilitary group have firearms obtained in the course of participation in hostilities in the south-east of Ukraine (case file 204-205, 206 volume 11).

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From the testimony of the **witness V.A. Kuznetsov,** read out by the court in accordance with par. 5, Part 2, Article 281 of the Code of Criminal Procedure of the Russian Federation, it follows that since 2007, he, together with Malyshkin, has been engaged in telephone pranks of public figures, both in the Russian Federation and abroad. outside. In September 2015, they learned from the media that the leaders of the Crimean Tatar Mejlis - Dzhemilev M., Chubarov R.A. and Islyamov L.E. organized a food blockade of the Republic of Crimea by Ukraine. On the Internet at www.nutcall.com, they found Mustafa Dzhemilev's mobile phone number and called him, having previously bought a Ukrainian SIM card from the Life mobile operator. He spoke with M. Dzhemilev on behalf of Anton Gerashchenko and offered M. Dzhemilev assistance in supporting the blockade of Crimea by providing material and military assistance through the Ministry of Internal Affairs of Ukraine.

They also asked Dzhemilev M. for the contacts of the direct coordinator of the blockade on the spot - Lenur Islyamov. Having received the specified phone number from Dzhemilev M., they called Lenur Islyamov and introduced themselves as Anton Gerashchenko. Mylyshkin A.V. called Islyamov L. on behalf of Anton Gerashchenko, and he (Kuznetsov V.A.) spoke to the indicated person on behalf of Arsen Avakov. In addition, he and Malyshkin A.V. during the prank call, corresponded electronically with Lenur Islyamov and with the internal affairs bodies of the Kherson region of Ukraine on behalf of allegedly Anton Gerashchenko, creating a mailbox under the name anton.gerashenko.mvd@gmail.com. During the correspondence, Lenur Islyamov sent them a photograph of a sheet of paper with a handwritten text on which he (L. Islyamov) put forward proposals to provide him with material and technical assistance to continue the blockade of the Republic of Crimea.

The listed conversations were recorded on mobile phones, the records from which and the electronic correspondence were copied to a flash drive. The results of the pranks were sent to the electronic box of the Prosecutor's Office of the Republic of Crimea to give a legal assessment of the activities of representatives of the Mejlis and their supporters. (case file 194-198 volume 4).

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The totality of the above evidence examined by the court fully confirms the guilt of Islyamov L.E. in the creation by him of an armed formation not provided for by federal law.

The panel of judges qualifies such actions of Islyamov L.E. under Part 1 of Article 208 of the Criminal Code of the Russian Federation as the creation of an armed formation not provided for by federal law (as amended by Federal Law No. 13O-FZ dated May 05, 2014).

The court, when qualifying the actions of Islyamov L.E. in this way, takes into account that the fact of the formation's creation and its direct creation by Islyamov L.E., as well as the fact of its armament, is confirmed by the testimony of witnesses - participants of the illegal armed formation Ablyazimov, Abduvaliev, Osmanov R.M., Zaitullaev, Osmanov A.N., whose testimony has no significant contradictions regarding the the fact of the existence of a group of people united by a single goal - the blockade of the Crimean peninsula from the Ukrainian border, as well as the forcible change of the foundations of the constitutional system and violation of the integrity of the Russian Federation, including through the implementation of

armed struggle aimed at the rejection of the Republic of Crimea from the Russian Federation; the implementation of the central leadership of this association of people by Islyamov L.E., because each of witnesses personally communicated with Islyamov L.E. on the subject of joining the battalion, motives, goals; the method of recruitment - by calling Islyamov L.E. in the media, as well as through close relatives; regarding the presence in the association of the daily routine, training, catering of all members of the battalion, the location of the headquarters and the place of residence of those accepted in the association of persons, as well as regarding the availability of weapons, the equipment of the place of storage of weapons - a trailer, which also housed the office of Islyamov L.E., the presence of protection of the territory where the tents of the members of the association were located, sand-colored uniforms with a chevron in the form of a horseman with a saber thrown over his head; signing a contract with Islyamov L.E. on joining battalion; names of the battalion.

Minor contradictions in the testimony of witnesses do not cast doubt on the reliability of their testimony in these circumstances.

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Also, the evidence examined at the court session fully confirms the guilt of Islyamov L.E. in committing sabotage by him.

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The relevance of such conversations specifically to events related to the undermining of electrical poles, through which energy was supplied to the Republic of Crimea, is also evidenced by interview of Islyamov L.E. as part of a live broadcast on the Ukrainian Crimean Tatar TV channel "ATR" on October 17, 2015, where Islyamov L.E. stated that he had organized a civil blockade of Crimea, which had been in place on the border area for a month in the village of Chongar, Genichesk district, Kherson region, and indicated the following: “Electricity will not be supplied to Crimea. We, as citizens of Ukraine, will do everything for this. Therefore, everyone who is watching us, rest assured, the electricity supply to Crimea will be turned off." In subsequent interviews, after the events of November 22, 2015, as part of the live broadcast of the Crimean News agency, published on the Internet on November 26, 2015, Islyamov L.E. also pointed out that the Crimean Tatar battalion named after N.Chelebidzhikhan is carrying out a blockade of the Crimea, which consists of several parts, as well as an energy blockade. In the same period, on the Ukrainian TV channel 112 Ukraine, in a television program as part of a live broadcast, he stated that they made it possible to connect one electric pole, that they had been near these electric poles for a long time, for more than three months, and that the electricity should not in any way be supplied to Crimea.

These interviews were the subject of inspection during the preliminary investigation, as a result of which protocols were drawn up for examining objects dated March 23, 2020, March 24, 2020 - inspection of optical discs with video files “Open dialogue with activists of the civil blockade of Crimea on October 17, 2015 part 1”, “Lenur Islyamov October 25, 2015”, “Islyamov about the Crimean Tatar battalion, energy blockade and smuggling” and Internet resources. (case file 17-29, 36-41, 42-55, 56-58, 59 volume 10)

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The actions of Islyamov L.E. are qualified by the court according to paragraphs "a, b" of Part 2 of Article 281 of the Criminal Code of the Russian Federation as the commission of explosions aimed at destroying structures in order to undermine the economic security and defense capability of the Russian Federation, organized by a group

that caused significant property damage.

Qualifying the actions of Islyamov L.E. Thus, the court takes into account that the testimony of witnesses Kuznetsov V.A., Abduvaliev, Mamutov E.S., as well as the interview of Islyamov L.E. fully confirm the organization by Islyamov L.E. of a group of people under the action "Civil Blockade of Crimea" some of which subsequently became part of illegal armed formation created by Islyamov L.E. and which, under the leadership of Islyamov L.E., blew up poles of 330 kV Kakhovka-Ostrovskoye No. 140 and 330 kV Kakhovka-Dzhankoy No. 161 overhead lines, located in the area of Chaplynka, Kherson region. The presence of a group of people under the leadership of Islyamov L.E. in the specified place during the period from November 21 to 22, 2015 is also evidenced by the video of the ATR TV channel entitled "Storming of the civil blockade of Crimea by Ukrainian security forces", from which it is clear that it was a group of people organized by Islyamov L.E. on November 21, 2015 that obstructed law enforcement officers and repair brigades to approach previously damaged poles for the resumption of electricity supply to the Crimea. This fact is evidenced by the subordination of this group to Islyamov L.E.; This is evidenced by the comments of Islyamov L.E. to the media about ongoing events on behalf of this group; this and the subsequent instructions of Islyamov L.E. to stop the supply of electricity to the Republic of Crimea on the terms previously reached between the governments of Ukraine and Russia; these are the statements of Islyamov L.E. that electricity will not be supplied to Crimea. This is also evidenced by the subsequent interview of Islyamov L.E., in which he stated that the energy blockade is one of the projects of the N.Chelebidzhikhan battalion, this fact also testifies to the stability of the group organized by him, which committed sabotage, which subsequently became part of illegal armed formations created by Islyamov L.E.

Regarding the goals of Islyamov L.E. - undermining the economic security and defense capability of the Russian Federation - the object of damage itself testifies - structures through which electricity was supplied to the territory of the Republic of Crimea, as a result of damage to which 876 settlements of the Republic of Crimea were left without power supply, including such important ones as economically, and for the purposes of defense of the country, the organizations SUE RK "Krymenergo" and FSUE "102 Electric Grid Enterprise", whose tasks are to provide electricity to the population, organizations and enterprises, the Ministry of Emergency Situations, the Ministry of Health of the Republic of Crimea, the Black Sea Fleet of the Russian Federation, whose tasks are to protect the population and the country in general, protection of life and health of the population, ensuring law and order, State Unitary Enterprise "Sevastopol Aviation Enterprise", whose task was to repair and maintain the technical condition of aviation equipment, Beg LLC, State Unitary Enterprise of Sevastopol "Management Company "Streletskaya Bay", GBU "Gorsvet", whose tasks were to ensure the well-being of the population, food security, and which, as a result of the actions by groups of persons, organized by Islyamov L.E., involved in blowing up electrical poles suspended their activities, could not fully perform the functions assigned to them, suffered losses in the amount of at least RUB 52,137,368.77, which is associated with the need to purchase additional equipment - alternative sources of energy supply, commissioning equipment, purchase of fuel and oils materials, additional involvement of persons in the performance of work to maintain public order and the safety of citizens, Beg LLC and the Ministry of Health of the Republic of Crimea suffered losses as a result of damage to products and medicines, respectively. Thus, both state-owned enterprises, organizations, and private ones were limited in their ability to perform their functions as a mechanism for the economic security of the state, and the executive authorities, which were entrusted with the functions of the country's defense, acted in an emergency mode to maintain the state's defense capability.

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In accordance with Part 3 of Article 69 of the Criminal Code of the Russian Federation, on the basis of the totality of crimes, to finally sentence Islyamov Lenur Edemovich by partial addition of the sentences imposed, determining to serve **a sentence of nineteen (19) years in prison with deprivation of the right** to engage in activities related to performances in the mass media, for a period of 2 years **and restriction of freedom for a period of 1 year** with the following restrictions in accordance with Article 53 of the Criminal Code of the Russian Federation: not to change the place of residence or stay without the consent of a specialized state body that oversees the serving of sentences in the form of restriction of freedom, not to travel outside the territory of the relevant municipality where the convicted person will live after serving his sentence; to oblige to appear in the specified specialized state body once a month for registration on the days established by this body.

The place of serving the punishment in the form of imprisonment by Islyamov L.E. shall be a correctional colony of a strict regime.

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To satisfy the civil claim **of Beg LLC** in the amount of RUB 5,000,002.20, to recover from Lenur Edemovich Islyamov RUB 5,000,002.20 in favor of Beg LLC as compensation for property damages.

To satisfy the civil claim of the Main Directorate of the **Ministry of Emergency Situations of Russia for the Republic of Crimea** in the amount of RUB 40,671,826 by recovering from Islyamov Lenur Edemovich RUB 40,671,826 in favor of the Main Directorate of the Ministry of Emergency Situations of Russia for the Republic of Crimea as compensation for property damage.

To satisfy the civil claim **of the Ministry of Health of the Republic of Crimea** in the amount of RUB 5,885,590 by collecting RUB 5,885,590 from Islyamov Lenur Edemovich in favor of the Ministry of Health of the Republic of Crimea as compensation for property damage.

To satisfy the civil claim of the **Black Sea Fleet of the Russian Federation** in the amount of RUB 217,810.98 by recovering RUB 217,810.98 from Islyamov Lenur Edemovich in favor of the Black Sea Fleet of the Russian Federation as compensation for property damage.

To satisfy the civil claim of the **Federal State Unitary Enterprise "Sevastopol Aviation Enterprise"** in the amount of RUB 297,689.93 by recovering RUB 297,689.93 from Islyamov Lenur Edemovich in favor of the Federal State Unitary Enterprise "Sevastopol Aviation Enterprise" as compensation for property damage.

To recognize the victims, namely **the State Unitary Enterprise of the Republic of Kazakhstan "Krymenergo", FSUE "102 [Enterprise of Electric Networks" of the Ministry of Defense of the Russian Federation and FSUE "Sevastopol Aviation Enterprise"** as regards compensation for lost profits the right to satisfy a civil claim by submitting an Interrogation about the amount of compensation for consideration in civil proceedings.

The verdict may be appealed to the Third Court of Appeal of General Jurisdiction through the Supreme Court of the Republic of Crimea within ten days from the moment of its proclamation, and if by the convicted person in custody – within the same period from the moment of handing him a copy of the verdict.

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Case No. 55-116/2021

RULING ON APPEAL

Sochi April 8, 2021

The Judicial Collegium for Criminal Cases of the Third Court of Appeal of General Jurisdiction, consisting of:
Presiding Judge Sutyagin K.I.,
Judges Totskaya Zh.G., Noskova A.A.,
with Assistant Judge Koroleva N.N.,
with the participation of prosecutors Ovchinnikov Yu.A., Gordeeva S.N.,
defense lawyer Polozov N.N.,
examined in open court hearing a criminal case on appeal submission filed by prosecutor Lobova R.V. and on appeals of the defenders of the convicted person Islyamov L.E. - lawyer Polozov N.N., lawyer Poluyanova T.N. against the verdict of the Supreme Court of the Republic of Crimea dated December 10, 2020, by which

Islyamov Lenur Edemovich, born on January 1, 1966, a native of the city of Bekabad of the Tashkent region of the UzSSR, a citizen of the Russian Federation, with no previous convictions, was convicted under par. "a", "b" Part 2 of Article 281 of the Criminal Code of the Russian Federation to fourteen (14) years in prison, under Part 1 of Art. 208 of the Criminal Code of the Russian Federation to twelve (12) years in prison with restriction of freedom for one (1) year, for six crimes under Part 2 of Art. 280.1 of the Criminal Code of the Russian Federation for each to one (1) year of imprisonment with deprivation of the right to engage in activities related to speeches in the media for one (1) year, on the basis of Part 3 of Article 69 of the Criminal Code of the Russian Federation by partial addition of the sentences imposed - to a punishment of nineteen (19) years in prison with serving a sentence in a strict regime correctional colony, with deprivation of the right to engage in activities related to speeches in the media for two (2) years and restriction of freedom for one (1) year with the imposition of restrictions and obligations.

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After hearing the report of Judge Noskova A.A., the speeches of the prosecutors who supported the arguments of the appeal presentation, the defender of the convicted person who supported the arguments of the appeals, the Judicial Collegium

established:

according to the court verdict, Islyamov L.E. was found guilty of organizing and directing the commission of sabotage, that is, the commission of explosions aimed at destroying structures in order to undermine the economic security and defense capability of the Russian Federation, committed by an organized group that caused significant property damage; created an armed formation not provided for by federal law; made public calls for actions aimed at violating the territorial integrity of the Russian Federation using mass media on September 08, 2015, October 17, 2015, November 21, 2015, no later than December 20, 2015 (Crimean News Agency and 112 Ukraine channel), no later than December 28, 2015.

These crimes were committed on the territory of Ukraine under the circumstances detailed in the verdict.

In the appeal submission, Prosecutor Lobov R.V. seeks the verdict to be changed due to violations of the law. He draws the court's attention to the changes made to Part 1 of Art. 280.1 of the Criminal Code of the Russian Federation Federal Law No. 425-FZ of December 08, 2020, according to which the criminal liability of a person for public calls for actions aimed at violating the territorial integrity of the Russian Federation occurs only after he has been brought to administrative liability for a similar act within one year. Due to the fact that Islyamov L.E. was not brought to administrative liability for these acts, and also taking into account the provisions of Article 54 of the Constitution of the Russian Federation, Article 10 of the Criminal Code of the Russian Federation on the retroactive force of the criminal law, he considers it necessary to exclude from the sentence an indication of Islyamov L.E.'s conviction for six crimes provided for in Part 2 of Article 280.1 of the Criminal Code, and to mitigate the sentence imposed on him in accordance with Part 3 of Article 69 of the Criminal Code of the Russian Federation - up to 18 years of imprisonment, with restriction of freedom for a period of 1 year.

In the appeal, the defender of the convicted person - lawyer Poluyanova T.N. points out the illegality and groundlessness of the verdict. In substantiation of his position, she refers to the Constitution of the Russian Federation, the norms of the criminal procedure law and the clarifications contained in the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 55 dated November 29, 2016 "On Court Verdict". She notes that the verdict must be based on reliable evidence, it cannot be based on assumptions.

It appears that the court did not establish what actions were committed by Islyamov L.E. on organizing the explosion of overhead power lines, when rendering the judgment, the court referred to the testimony of the victims who had no information whatsoever about who organized the explosion. In addition, the court unreasonably referred to the testimony of the witness Abduvaliev S.E., obtained at the stage of the preliminary investigation, and not in court, as well as the testimony of the witness Mamutov E.S., which do not agree with each other, are contradictory, and their reliability is questionable. According to the defense, the testimony of the witness Kuznetsov V.A. also does not confirm the guilt of Islyamov L.E. in the alleged wrongdoing.

At the same time, she believes that there is also no evidence confirming the guilt of Islyamov L.E. in creating an illegal armed formation. She notes that the convicted person in an interview spoke about the creation of a battalion as part of the Armed Forces of Ukraine, in the testimony of witness Abduvaliev S.E. there are contradictions that have not been resolved by the court, and the testimony of witnesses Ablyazimov E.Ya., Osmanova A.N, Zeytulaeva S.I. cannot be used as the basis for the verdict, since these persons were on the territory of Ukraine only in 2016.

In addition, the defender draws the attention of the court to the lack of signs of crimes in the actions by Islyamov L.E. which signs are provided for in Part 2 of Article 280.1 of the Criminal Code of the Russian Federation, since the convicted person did not call for specific actions, but only expressed the idea of returning Crimea to the territory of Ukraine. Based on the foregoing, she seeks that the verdict be canceled and Islyamov L.E. be discharged.

In the appeal and the addendum to it, the defender of the convicted person - lawyer Polozov N.N. also expresses disagreement with the verdict, asks to cancel it, referring to the illegality and groundlessness, inconsistency of the conclusions of the court with the actual circumstances of the case. Referring to the provisions of the Constitution of the Russian Federation, she draws the attention of the court that the application of the law shall be carried

out within the territorial jurisdiction of the Russian Federation. Citing judicial practice in the petition, an analysis of the evidence used in the verdict as the basis for the accusation of Islyamov L.E., the defense believes that the actions of his client are incorrectly qualified by the court under Part 1 of Article 208 of the Criminal Code of the Russian Federation since the armed formation was created outside the Russian Federation - on the territory of Ukraine, and this part of the article does not provide for the extraterritorial effect of the norm. In addition, there is no evidence in the case confirming that the battalion is recognized as a banned extremist or terrorist organization in Russia or in other states. Under such circumstances, the court incorrectly applied the criminal law: the analogy of the law was applied and objective imputation was allowed within the meaning of the legislation.

She also draws the court's attention to the fact that the criminal case on six crimes under Part 2 of Article 280.1 of the Criminal Code of the Russian Federation should be terminated due to the decriminalization of the acts imputed to Islyamov L.E.

The defense, challenging the qualification of the actions of Islyamov L.E. according to paragraph "a, b" of Part 2 of Article 281 of the Criminal Code of the Russian Federation, believes that the prosecution has not proved, and the court has not properly established the guilt of her client in this wrongdoing. To substantiate her position, when evaluating the evidence, the advocate refers to the accusatory bias of the court when making a judgment, the inconsistency of the evidence underlying the prosecution. She believes that the court did not take into account the clarifications of the Plenum of the Supreme Court of the Russian Federation No. 55 dated November 29, 2016 “On Court Verdict”, the practice of the European Court of Human Rights, which is of significant importance in this case.

The court selectively based the charges against Islyamov L.E. on the testimony of witness Abduvaliev S.E., the court took into account the testimony of the witness given at the stage of the preliminary investigation, while not taking into account that the witness gave other testimony during the court session, indicating the unreliability of his initial testimony.

Also, the verdict contains an incomplete and biased assessment of the testimony given in court by the witness E.S. Mamutov. The court did not take into account the circumstance that the witness was testifying about other events that had occurred earlier - before the overhead power lines towers were blown up. According to the defense, the court unreasonably denied the defense's motion to declassify the data of this witness and interrogate him under the conditions of evidence. The defense side does not agree with the assessment of the reliability of the testimony of Mamutov E.S., since they are in contradiction with the established circumstances of the act qualified under paragraphs "a, b" of Part 2 of Article 281 of the Criminal Code of the Russian Federation. The interrogation of the witness in conditions excluding his visual observation deprived the defense side of the opportunity to assess his auditory and visual abilities, and as a result to file a motion for an investigative experiment. She notes that when comparing the testimony of Mamutov E.S. with the testimony of other witnesses, obvious inconsistencies in them are revealed.

The advocate also disagrees with the fact that the verdict is based on the protocols of the inspection of objects and the testimony of the witness Kuznetsov V.A. who received information about the circumstances of the incriminated crimes by committing telephone pranks. She believes that in the indicated evidence there is no information about any intentions or actions aimed at the organization of sabotage by Islyamov L.E. She also notes that the method of obtaining information by Kuznetsov V.A. has no legislative ground, therefore, the possibility of their falsification is not excluded. The defense believes that since Islyamov L.E. is a public figure, it will not be difficult to find a recording of his voice on the Internet and process it. As it appears, the court did not assess the possible technical impact on the audio recordings of conversations presented, and the question of conducting a forensic foposcopic examination was not raised. She finds the conclusions of the court about the voluntary actions

of the specified witness, as well as about the objectivity and reliability of the evidence received from him, unfounded. Referring to the norms of the Code of Criminal Procedure of the Russian Federation, international norms, the positions of the Supreme Court of the Russian Federation, the Constitutional Court of the Russian Federation and the European Court of Human Rights, the advocate points to a gross violation of the right to defense. The court did not take all exhaustive measures to summon the witness Kuznetsov V.A. before deciding on the announcement of his testimony. Taking into account the specifics of the consideration of the case in accordance with Part 5 of Article 247 of the Code of Criminal Procedure of the Russian Federation, the defenders invited by Islyamov L.E. entered the case only at the stage of judicial proceedings, which deprived the defense side of challenging the witness's testimony. She believes that the prosecutor unreasonably refused to interrogate the witness Malyshkin A.V., which deprived Islyamov L.E. of the full realization of his right to defense.

In the arguments of the petition, the defense indicates that none of the interrogated representatives of the victims provided the court with information indicating the involvement of Islyamov L.E. in the organization of sabotage, and the information reported by them is well known and confirms only the fact of a power outage. In addition, the testimony of other witnesses also does not contain information about the involvement of Islyamov L.E. in the organization of sabotage. Giving an assessment of the evidence of the involvement of Islyamov L.E., the court committed violations of the criminal procedure law, since it did not take into account the circumstances that were relevant to the conclusions of the court when passing a verdict. Thus, the court established the circumstances of the explosion of power lines that occurred 2 days before the event in which Islyamov L.E. is accused, as well as the activities of a number of armed formations on the territory of the Kherson region of Ukraine, however, an analysis of the relationship between the events of November 20, 2015, and November 22, 2015, was not carried out, versions of the commission of sabotage by other persons were not rejected.

The court, assessing the subjective side of the incriminated act, referred to the video dated November 21, 2015. However, the defender does not agree that the court took into account this evidence, since there is no causal relationship between the events that occurred and the speech of Islyamov L.E. about his negative attitude towards the transition of Crimea to Russia, as well as opposition to the repair work of the blown-up poles. Thus, the court has not established sufficient and reliable evidence confirming the guilt of Islyamov L.E. in the organization of sabotage.

As regards the conclusion of the court that in relation to Islyamova L.E. political persecution is not carried out, the lawyer finds it untenable, since it is refuted by objective data. In addition, during the investigation of the case against the convicted person, no actions were carried out in accordance with Chapter 53 of the Code of Criminal Procedure of the Russian Federation, neither the court nor law enforcement agencies sought legal assistance from the authorized bodies of the state where, according to the investigation, crimes were committed. The court has not established reliably that criminal prosecution in a foreign state is not carried out against Islyamov L.E., which also confirms the political aspect of the criminal case. Insisting on the accusatory bias of the court when passing the verdict, the defender seeks to take into account the fact of the falsity of the testimony of witness Ilyasov R.R. which is confirmed by the verdict of the Alushta City Court dated April 26, 2016.

On the basis of the above arguments, she seeks the court to cancel the verdict, to refuse to satisfy civil claims, with respect to the accusation of Islyamov L.E. under Part 1 of Article 208 of the Criminal Code of the Russian Federation, six crimes provided for in Part 2 of Article 280.1 of the Criminal Code of the Russian Federation - to terminate the proceedings for the absence of *corpus delicti*, and according to paragraph "a, b" of Part 2 Article 281 of the Criminal Code of the Russian Federation in connection with his non-involvement in the

incriminated act, in the absence of a crime event.

In the objections to the appeals of the defenders, the state prosecutor Lobov R.V. expresses disagreement with their arguments, asks the court to dismiss them.

At the court session of the court of appeal, the prosecution supported the arguments of the appeal petition, sought the court to cancel the verdict in part of the conviction of Islyamov L.E. under Part 2 of Article 280.1 of the Criminal Code in connection with decriminalization, to leave the verdict unchanged as regards the rest of the court verdict, the defense side supported the arguments of appeal petitions, sought the court to cancel the verdict and to discharge Islyamov L.E.

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On the basis of the above, guided by Articles 389.20, 389.21, 389.26 and Article 389.28 of the Code of Criminal Procedure of the Russian Federation, the judicial board

decided:

the verdict of the Supreme Court of the Republic of Crimea dated December 10, 2020 in relation to Lenur Edemovich Islyamov in terms of conviction under Part 2 of Art. 280.1, part 2 of Art. 280.1, part 2 of Art. 280.1, part 2 of Art. 280.1, part 2 of Art. 280.1, part 2 of Art. 280.1 of the Criminal Code cancel, and in accordance with Part. 2 Article. 24 of the Code of Criminal Procedure of the Russian Federation, the proceedings in this part should be terminated on the grounds provided for in paragraph 2 of part 1 of Art. 24 Code of Criminal Procedure, for lack of *corpus delicti*.

The same sentence shall be changed, the indication of the following persons should be excluded from the description of the criminal act: Ablyazimov E.Ya., Osmanova R.M., Osmanova A.N., Zaitullayeva S.I.E.

On the basis of Part 3 of Article 69 of the Criminal Code of the Russian Federation on the totality of crimes provided for in Part 1 of Article 208 of the Criminal Code of the Russian Federation, paragraph "a, b" of Part 2 of Article 281 of the Criminal Code of the Russian Federation, by partial addition of punishments, to finally convict Islyamov L.E. to eighteen (18) years of imprisonment with serving a sentence in a high-security penal colony, with restriction of freedom for a period of one (1) a year with the establishment of restrictions not to change the place of residence or stay without the consent of a specialized state body supervising the serving of a sentence in the form of restriction of freedom by a convicted person, not to travel outside the territory of the relevant municipality where the convicted person will reside after serving the deprivation of freedom; to oblige to appear in the specified specialized state body once a month for registration on the days established by this body.

To leave the rest of the verdict against Islyamov L.E. unchanged, to dismiss the appeal petition of the defender Poluyanova T.N., to partially satisfy the appeal petition of the defender Polozov N.N., to fully satisfy the appeal petition of the prosecutor.

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Presiding Judge /signature/
Judges / signature / / signature /

Annex 97

Decree of the President of the Russian Federation No. 201 "On Amendments to the List of Border Territories Where Foreign Citizens, Stateless Persons and Foreign Legal Entities Cannot Own Land Plots, Approved by the Decree of the President of the Russian Federation of January 9, 2011, No. 26" (20 March 2020)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

DECREE

PRESIDENT OF THE RUSSIAN FEDERATION

On Amendments to the List of Border Territories Where Foreign Citizens, Stateless Persons and Foreign Legal Entities Cannot Own Land Plots, approved by Decree of the President of the Russian Federation of January 9, 2011 No. 26

1. Include in the list of border territories where foreign citizens, stateless persons and foreign legal entities cannot own land plots, approved by Decree of the President of the Russian Federation of January 9, 2011 No. 26 "On approval of the list of border territories, on which foreign citizens, stateless persons and foreign legal entities cannot own land plots" (Collected Legislation of the Russian Federation, 2011, No. 2, Art. 268; 2016, No. 16, Art. 2199), the following changes:

a) add the following section:

"Republic of Crimea

44 1 . Municipal formation Bakhchisaray district of the Republic of Crimea.
44 2 . Municipal formation Dzhankoysky district of the Republic of Crimea.
44 3 . Municipal formation Kirovsky district of the Republic of Crimea.
44 4 . Municipal formation Krasnoperekopsky district of the Republic of Crimea.
44 5 . Municipal formation Leninsky district of the Republic of Crimea.
44 6 . Municipal formation Nizhnegorsky district of the Republic of Crimea.
44 7 . Municipal formation Razdolnensky district of the Republic of Crimea.
44 8 . Municipal formation Saksky district of the Republic of Crimea.
44 9 . Municipal formation Simferopol region of the Republic of Crimea.
44 10 . Municipal formation Sovetsky district of the Republic of Crimea.
44 11 . Municipal formation Chernomorsky district of the Republic of Crimea.
44 12 . Municipal formation of the urban district of Alushta of the Republic of Crimea.
44 13 . Municipal formation of the urban district of Armyansk of the Republic of Crimea.
44 14 . Municipal formation of the urban district of Evpatoria of the Republic of Crimea.
44 15 . Municipal formation of the urban district of Kerch of the Republic of Crimea.
44 16 . Municipal formation of the urban district of Saki of the Republic of Crimea.
44 17 . Municipal formation of the urban district of Sudak of the Republic of Crimea.
44 18 . Municipal formation of the urban district of Feodosia of the Republic of Crimea.
44 19 . Municipal formation of the urban district of Yalta of the Republic of Crimea.

b) Clause 69 shall be declared invalid;
c) paragraphs 172 - 178 shall be declared invalid;
d) add paragraphs 178 1 - 178 24 as follows:

"178 1. Municipal formation "Closed administrative-territorial formation Znamensk of the Astrakhan region".

178 2 . Municipal formation "City of Akhtubinsk".
178 3 . Municipal formation "Poselok Nizhniy Baskunchak".
178 4 . Municipal formation "Working settlement Liman".
178 5 . Municipal formation "Aksaray village council".
1786 . _ Municipal formation "Baibek village council".
178 7 . Municipal formation "Vatazhensky village council".
178 8 . Municipal formation "Zolotukhinsky village council".
178 9 . Municipal formation "Kalininsky village council".
178 10 . Municipal formation "Karalat village council".
178 11 . Municipal formation "Karaulinsky village council".
178 12 . Municipal formation "Kochkovatsky village council".
178 13 . Municipal formation "Mikhailovsky village council".
178 14 . Municipal formation "Multanovsky village council".
178 15 . Municipal formation "Mumrinsky village council".
178 16 . Municipal formation "Novokrasinsky village council".
178 17 . Municipal formation "Obraztsovo-Travinsky village council".
178 18 . Municipal formation "Razdorsky village council".
178 19 . Municipal formation "Sasykol village council".
178 20 . Municipal formation "Tambov village council".
178 21 . Municipal formation "Tishkovsky village council".
178 22 . Municipal formation "Udachensky village council".
178 23 . Municipal formation "Tsvetnovsky village council".
178 24 . Municipal formation "Chulpansky village council.";

e) clause 181 shall be stated as follows:
"181. Municipal formation Valuysky city district.";
f) clause 184 shall be stated as follows:
"184. Municipal formation Grayvoron city district.";
g) clause 187 shall be stated as follows:
"187. Municipal formation Shebekinsky city district.";
h) the section "Kaliningrad Region" shall be stated in the following wording:

"Kaliningrad region

206. Urban district "City of Kaliningrad".
207. Municipal formation "Bagrationovsky city district" of the Kaliningrad region.
208. Municipal formation "Baltic city district" of the Kaliningrad region.
209. Municipal formation "Guryev city district" of the Kaliningrad region.
210. Municipal formation "Zelenograd city district" of the Kaliningrad region.
211. Municipal formation "Krasnoznamensky city district" of the Kaliningrad region.
212. Municipal formation "Ladushkinsky urban district".
213. Municipal formation "Mamonovsky city district".
214. Municipal formation "Neman urban district" of the Kaliningrad region.
215. Municipal formation "Nesterovsky city district" of the Kaliningrad region.
216. Municipal formation "Ozersky city district" of the Kaliningrad region.

217. Municipal formation "Pioneer city district".
218. Municipal formation "Polessky urban district" of the Kaliningrad region.
219. Municipal formation "Pravdinsky city district" of the Kaliningrad region.
220. Municipal formation "Svetlovsky city district" of the Kaliningrad region.
221. Municipal formation "Svetlogorsk city district".
222. Municipal formation "Slavsky city district" of the Kaliningrad region.
223. Municipal formation "Soviet city district" of the Kaliningrad region.
224. Municipal formation "Yantarny urban district" of the Kaliningrad region. ";

i) Paragraph 286 shall be stated as follows:
"286. Municipal formation "City of Orsk" of the Orenburg region.";

j) add the following section:

"Sevastopol

354 1 . Intracity municipality of the city of Sevastopol Andreevsky municipal district.
354 2 . Intracity municipality of the city of Sevastopol Balaklavsky municipal district.
354 3 . Intra-city municipality of the city of Sevastopol Gagarinsky municipal district.
354 4. Intracity municipality of the city of Sevastopol Kachinsky municipal district.
354 5 . Intra-city municipality of the city of Sevastopol - Leninsky municipal district.
3546 . _ Intracity municipality of the city of Sevastopol Nakhimovsky municipal district.
354 7 . Intracity municipality of the city of Sevastopol Orlinovsky municipal district.
354 8 . The city of Inkerman, an intracity municipality of the city of Sevastopol.";

k) the note after the figures "168 - 171," shall be supplemented with the figures "178 1 ,".

2. This Decree shall enter into force on the day of its official publication.

President of the Russian Federation V. Putin

Moscow Kremlin

March 20, 2020

No. 201

Annex 98

List of Registered Media Outlets, Federal Service for Supervision in the Sphere of Communications, Information Technology and Mass Communications (8 April 2022)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Black Sea showcase

Certificate number	PI No. TU 91 - 00114
Date of registration	26.02.2015
certificate status	the action was terminated on 10.12.2018 By the decision of the founders
Media name	Black Sea showcase
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Didynsky B.N.; Gromov S.B.
Editorial address	297400, Crimea Rep., Evpatoria, st. Frunze, 28/41 a, of. 102
Languages	English, Russian, Crimean Tatar, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=543310

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Scientific notes of the Crimean Engineering and Pedagogical University. Series: Pedagogy. Psychology

Certificate number	PI No. TU 91 - 00199
Date of registration	06/16/2015
certificate status	the action was terminated on 06/01/2021 By the decision of the founders
Media name	Scientific notes of the Crimean Engineering and Pedagogical University. Series: Pedagogy. Psychology
Distribution form	print media magazine
Distribution area	Republic of Crimea
Founders	State Budgetary Educational Institution of Higher Education of the Republic of Crimea "Crimean Engineering and Pedagogical University"

Editorial address	295015, Crimea Rep., Simferopol, per. Educational, d. 8
Languages	English, Russian, Crimean Tatar, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=576887

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Titan Media

Certificate number	PI No. TU 91 - 00139
Date of registration	03/24/2015
certificate status	the action was terminated on 11.10.2019 By the decision of the founders

Media name	Titan Media
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Limited Liability Company "Titanium Investments"
Editorial address	296012, Crimea Rep., Armyansk, Northern industrial zone, Armenian branch of LLC "Titanium Investments" - "Crimean Titan"
Languages	Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=550822

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

TV channel "KTV"

Certificate number	EL No. FS 77 - 60751

Date of registration	09.02.2015
certificate status	terminated on 01/19/2021
	Liquidation of a legal entity / association of citizens or death of an individual
Media name	TV channel "KTV"
Distribution form	TV channel
Distribution area	Republic of Crimea
	Sevastopol
Founders	Limited Liability Company "RosKrymMedia Production"
Editorial address	295017, Crimea Rep., Simferopol, st. Kievskaya, 59/2, of. 21
Languages	Russian, Armenian, Bulgarian, Greek, Crimean Tatar, German, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=538376

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Perspectives of modern psychology and pedagogy

Certificate number	PI No. TU 91 - 00184
Date of registration	06/08/2015
certificate status	the action was terminated on 10/25/2019 By the decision of the founders

Media name	Perspectives of modern psychology and pedagogy
Distribution form	print media compilation
Distribution area	Republic of Crimea
Founders	State Budgetary Educational Institution of Higher Education of the Republic of Crimea "Crimean Engineering and Pedagogical University"
Editorial address	295015, Crimea Rep., Simferopol, per. Educational, d. 8
Languages	English, Russian, Crimean Tatar, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=574647

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Our Newspaper Yalta

Certificate number	PI No. TU 91 - 00224
Date of registration	09/10/2015
certificate status	the action was terminated on 06/15/2018 By the decision of the founders
Media name	Our Newspaper Yalta
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Limited Liability Company "Gorod 82"
Editorial address	298600, Republic of Crimea, Yalta, st. Embankment them. Lenina/Sadovaya, 3, floor 1
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=588386

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Our Newspaper Feodosia

Certificate number	PI No. TU 91 - 00226
Date of registration	09/10/2015
certificate status	the action was terminated on 06/15/2018 By the decision of the founders
Media name	Our Newspaper Feodosia
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Limited Liability Company "Gorod 82"
Editorial address	295006, Republic of Crimea, Simferopol, st. A. Nevsky, 17, office 201
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=588388

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Our Newspaper Simferopol

Certificate number	PI No. TU 91 - 00212
Date of registration	07/20/2015
certificate status	the action was terminated on 06/26/2018
	By the decision of the founders
Media name	Our Newspaper Simferopol
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Limited Liability Company "Gorod 66"
Editorial address	295006, Republic of Crimea, Simferopol, st. A. Nevsky, 17
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=583588

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Our Newspaper Kerch

Certificate number	PI No. TU 91 - 00227
Date of registration	09/10/2015
certificate status	the action was terminated on 06/15/2018
	By the decision of the founders
Media name	Our Newspaper Kerch
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Limited Liability Company "Gorod 82"
Editorial address	295006, Republic of Crimea, Simferopol, st. A. Nevsky, 17, office. 201
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=588389

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Our Newspaper Evpatoria

Certificate number	PI No. TU 91 - 00225
Date of registration	09/10/2015
certificate status	the action was terminated on 06/15/2018
	By the decision of the founders
Media name	Our Newspaper Evpatoria
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Limited Liability Company "Gorod 82"
Editorial address	295006, Republic of Crimea, Simferopol, st. A. Nevsky, 17, office 201
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=588387

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Our Newspaper Alushta

Certificate number	PI No. TU 91 - 00223
Date of registration	09/10/2015
certificate status	the action was terminated on 06/15/2018
	By the decision of the founders
Media name	Our Newspaper Alushta
Distribution form	print media newspaper
Distribution area	Republic of Crimea

Founders	Limited Liability Company "Gorod 82"
Editorial address	295006, Republic of Crimea, Simferopol, st. A. Nevsky, 17
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=588385

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Literary children's world

Certificate number	PI No. TU 91 - 00031
Date of registration	09/25/2014
certificate status	the action was terminated on 19.09.2016
	By decision of the founders.
Media name	Literary children's world
Distribution form	print media magazine
Distribution area	Republic of Crimea
Founders	Ogurtsova L.V.
Editorial address	295493, Republic of Crimea, Simferopol, st. Gresovskaya, 8, apt. 29
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=514353

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Literary Crimea

Certificate number	PI No. TU 91 - 00099
Date of registration	12/31/2014
certificate status	the action was terminated on 01/20/2017
	By decision of the founders.

Media name	Literary Crimea
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Kilesa V.V.
Editorial address	295022, Republic of Crimea, Simferopol, st. Kievskaya, 44, apt. eleven
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=534187

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS (ROSKOMNADZOR)

Our newspaper Sevastopol

Certificate number	PI No. TU 91 - 00217
Date of registration	07/20/2015
certificate status	the action was terminated on 10.07.2018
	By the decision of the founders
Media name	Our newspaper Sevastopol
Distribution form	print media newspaper
Distribution area	Sevastopol
Founders	Limited Liability Company "Gorod 66"
Editorial address	299053, Sevastopol, st. Vakulenchuk, 35-A
Languages	Crimean Tatar, Russian, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=583567

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS (ROSKOMNADZOR)

Omega Polis

Certificate number	EL No. TU 91 - 00130
Date of registration	03/24/2015
certificate status	terminated on 06/05/2020
	Liquidation of a legal entity / association of citizens or death of an individual
Media name	Omega Polis
Distribution form	radio channel
Distribution area	Sevastopol
Founders	Limited Liability Company "TV RADIO COMPANY "SIAN"
Editorial address	295053, Sevastopol, st. Mate Zalki, 17

Languages	Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=550813

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS (ROSKOMNADZOR)

Television company YUTV-Krym

Certificate number	EL No. TU 91 - 00257
Date of registration	04.03.2016
certificate status	the action was terminated on 18.05.2018
	By decision of the founders
Media name	Television company YUTV-Krym
Distribution form	TV channel
Distribution area	Sevastopol
Founders	Limited Liability Company YuTV Television Company
Editorial address	428036, Chuvashskaya - Chuvashia Rep., Cheboksary, st. Mate Zalka, 13, apt. 105
Languages	Crimean Tatar, Russian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=593571

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

CT.FM

Certificate number	EL No. FS 77 - 66105
Date of registration	06/20/2016
certificate status	the action was terminated on February 10, 2020
	By the decision of the founders
Media name	CT.FM
Distribution form	Online edition
Distribution area	Russian Federation
	foreign countries
Founders	Individual entrepreneur Belitsky Sergey Petrovich
Editorial address	295021, Crimea Rep., Simferopol, per. Spartaka, 47
Languages	English, Russian, Crimean Tatar, Ukrainian
Domain name	SITIFM.RF

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=597747

4/7/22, 10:26 AM Роскомнадзор - Перечень наI.1меноваI.1й зареI.1стрI.1рованных СМИ

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

CT.FM

Certificate number	EL No. FS 77 - 66019
Date of registration	06/20/2016
certificate status	the action was terminated on February 10, 2020
	By the decision of the founders
Media name	CT.FM
Distribution form	TV channel
Distribution area	Russian Federation
	foreign countries
Founders	Individual entrepreneur Belitsky Sergey Petrovich
Editorial address	295021, Crimea Rep., Simferopol, per. Spartaka, 47
Languages	English, Russian, Crimean Tatar, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=597497

4/7/22, 10:20 AM Roskomnadzor - List of names of registered media

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS (ROSKOMNADZOR)

SOUTHERN ALMANAC OF SCIENTIFIC RESEARCH

Certificate number	EL No. FS 77 - 69910
Date of registration	06/07/2017
certificate status	the action was terminated on 10.12.2019
	By the decision of the founders
Media name	SOUTHERN ALMANAC OF SCIENTIFIC RESEARCH
Distribution form	Online edition
Distribution area	Russian Federation
	foreign countries
Founders	Limited Liability Company "GLOBAL TRADE AND SERVICE"
Editorial address	299046, Sevastopol, Pobedy Ave., 76, apt. 97
Languages	English Russian Ukrainian
Domain name	yunia.ru

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=627932

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS (ROSKOMNADZOR)

Crewing Bulletin

Certificate number	PI No. FS 77 - 59454
Date of registration	03.10.2014
certificate status	the action was terminated on 28.08.2019
	By the decision of the founders
Media name	Crewing Bulletin
Distribution form	printed media bulletin
Distribution area	foreign countries
	Russian Federation
Founders	Ermakova E.A.
Editorial address	299045, Sevastopol, st. Dmitry Ulyanov, d. 1-A, office. 4
Languages	English, Russian, Spanish, Italian, German, Ukrainian, French

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=514089

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS (ROSKOMNADZOR)

Information agency "Sevastopol"

Certificate number	IA No. FS 77 - 58419
Date of registration	06/25/2014
certificate status	the action was terminated on 25.09.2015
	By decision of the founders.
Media name	Information agency "Sevastopol"
Distribution form	Information Agency
Distribution area	foreign countries
	Russian Federation
Founders	Dokin V.V.
Editorial address	299007, Sevastopol, st. Lobanova, 21
Languages	Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=501909

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS (ROSKOMNADZOR)

All real estate in Crimea and prices

Certificate number	PI No. FS 77 - 61544
Date of registration	04/24/2015
certificate status	the action was terminated on 15.04.2019
	By the decision of the founders
Media name	All real estate in Crimea and prices
Distribution form	print media newspaper
Distribution area	the Russian Federation
Founders	Zakharchenko I.I.
Editorial address	298600, Crimea Rep., Yalta, st. Kievskaya, 20, apt. one
Languages	English Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=555067

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Literary Crimea

Certificate number	PI No. TU 91 - 00332
Date of registration	01/11/2018
certificate status	the action was terminated on 28.05.2020
	By the decision of the founders
Media name	Literary Crimea
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	"Union of Writers of the Republic of Crimea"
Editorial address	295022, Crimea Rep., Simferopol, st. Vinogradnaya, 22
Languages	Russian, Crimean Tatar, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=653222

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Literary and art magazine "Crimea"

Certificate number	PI No. TU 91 - 00126
Date of registration	03/24/2015
certificate status	the action was terminated on 23.01.2019 By the decision of the founders
Media name	Literary and art magazine "Crimea"
Distribution form	print media magazine
Distribution area	Republic of Crimea
Founders	Basyrov V.M.
Editorial address	295022, Crimea Rep., Simferopol, st. Vinogradova, 22
Languages	English, Russian, Armenian, Belarusian, Bulgarian, Greek, Crimean Tatar, German, Polish, Turkish, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=550809

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Historical, local history and literary and art journal "Share"

Certificate number	PI No. TU 91 - 00127
Date of registration	03/24/2015
certificate status	the action was terminated on 23.01.2019 By the decision of the founders
Media name	Historical, local history and literary and art journal "Share"
Distribution form	print media magazine
Distribution area	Republic of Crimea
Founders	Basyrov V.M.
Editorial address	295022, Crimea Rep., Simferopol, st. Vinogradova, 22
Languages	English, Russian, Crimean Tatar, Polish, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=550810

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

emerald wave

Certificate number	EL No. FS 77 - 64242
Date of registration	12/25/2015
certificate status	the action was terminated on 12/13/2016
	By a court decision.
Media name	emerald wave
Distribution form	radio channel
Distribution area	Republic of Crimea
	Sevastopol
Founders	Limited Liability Company "RosKrymMedia Production"
Editorial address	295011, Republic of Crimea, Simferopol, st. Kozlova, 45A
Languages	Crimean Tatar, Russian, Armenian, Bulgarian, Greek, German, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=538377

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Pearl

Certificate number	PI No. FS 77 - 61422
Date of registration	04/30/2015
certificate status	the action was terminated on 10.12.2018
	By the decision of the founders
Media name	Pearl
Distribution form	print media newspaper
Distribution area	Republic of Crimea
	St. Petersburg
Founders	Gabitov M.M.
Editorial address	295011, Crimea Rep., Simferopol, st. Pushkin, 9

Languages Russian, Tatar, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=552833

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Nesil

Certificate number	PI No. TU 91 - 00359
Date of registration	04/05/2019
certificate status	the action was terminated on 09.02.2021 By the decision of the founders
Media name	Nesil
Distribution form	print media magazine
Distribution area	Republic of Crimea
Founders	State Committee for Interethnic Relations and Deported Citizens of the Republic of Crimea; State Autonomous Institution of the Republic of Crimea "Media Center named after Ismail Gasprinsky"
Editorial address	295048, Crimea Rep., Simferopol, st. Trubachenko, d. 23A

Languages Russian, Crimean Tatar

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=724171

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS MEDIA OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION OF COMMUNICATIONS, INFORMATION TECHNOLOGY AND MASS MEDIA (ROSKOMNADZOR)

"Uyg'unlyk'. Harmony. Garmonia"

Certificate Number	PI NO TU 91 - 00188
Registration Date	08.06.2015
Certificate Status	expired on 23.01.2017On the decision of the founders.
Name of mass media	"Uyg'unlyk'. Harmony. Garmonia"

Form of distribution print media newspaper

Territory of distribution	Republic of Crimea
Founders	State Budgetary Educational Establishment of Higher Education of the Republic of Crimea "Crimean Engineering and Pedagogical University"
Address of the editorial office	295015, Krym Rep., Simferopol, Uchebny lane, 8
Languages	crimean tatar, russian, ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=574688

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS MEDIA OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION OF COMMUNICATIONS, INFORMATION TECHNOLOGY AND MASS MEDIA (ROSKOMNADZOR)

"Northern Crimea"

Certificate Number	EL NO TU 91 - 00254
Registration Date	01.03.2016
Certificate Status	expired 25.12.2020On
	the decision of the founders
Name of mass media	"Northern Crimea"
Form of distribution	Television channel
Territory of distribution	Republic of Crimea
Founders	Municipal Unitary Enterprise "Northern Crimea" of the Municipal Formation of Armyansk Urban District of the Republic of Crimea
Address of the office	296012, Crimea Republic, Armyansk, General Vasiliev microdistrict, 1 (9th floor) editorial
Languages	russian, crimean tatar, ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=550821

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Tauride Journal of Psychiatry

Certificate number	PI No. FS 77 - 61794
Date of registration	05/18/2015
certificate status	the action was terminated on 03/04/2022 By the decision of the founders

Media name	Tauride Journal of Psychiatry
Distribution form	print media magazine
Distribution area	the Russian Federation
Founders	Federal State Autonomous Educational Institution of Higher Education "Crimean Federal University named after V.I. Vernadsky"
Editorial address	295006, Crimea Rep., Simferopol, bul. Lenina, d. 5/7
Languages	English Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=566187

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

World Literature at the Crossroads of Cultures and Civilizations

Certificate number	PI No. FS 77 - 61825
Date of registration	05/18/2015
certificate status	the action was terminated on 03/04/2022 By the decision of the founders

Media name	World Literature at the Crossroads of Cultures and Civilizations
Distribution form	print media magazine
Distribution area	Russian Federation foreign countries
Founders	Federal State Autonomous Educational Institution of Higher Education "Crimean Federal University named after V.I. Vernadsky"
Editorial address	295007, Crimea Rep., Simferopol, Academician Vernadsky Avenue, 2, room. 216
Languages	Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=566930

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Crimean archive

Certificate number	PI No. FS 77 - 61818
Date of registration	05/18/2015
certificate status	the action was terminated on 03/04/2022 By the decision of the founders
Media name	Crimean archive
Distribution form	print media magazine
Distribution area	Russian Federation foreign countries

Founders	Federal State Autonomous Educational Institution of Higher Education "Crimean Federal University named after V.I. Vernadsky"
Editorial address	295007, Crimea Rep., Simferopol, Academician Vernadsky Avenue, 2, room. 216
Languages	Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=567147

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Dynamic systems

Certificate number	PI No. FS 77 - 61810
Date of registration	05/18/2015
certificate status	the action was terminated on 30.03.2022 By the decision of the founders

Media name	Dynamic systems

Distribution form	print media magazine
Distribution	Russian Federation
area	foreign countries
Founders	Federal State Autonomous Educational Institution of Higher Education "Crimean Federal University named after V.I. Vernadsky"
Editorial address	295033, Crimea Rep., Simferopol, Academician Vernadsky Avenue, 4, bldg. B, room 203
Languages	English Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=567307

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Issues of Russian literature

Certificate number	PI No. FS 77 - 61824
Date of registration	05/18/2015
certificate status	the action was terminated on 03/04/2022 By the decision of the founders

Media name	Issues of Russian literature
Distribution form	print media magazine
Distribution	Russian Federation
area	foreign countries
Founders	Federal State Autonomous Educational Institution of Higher Education "Crimean Federal University named after V.I. Vernadsky"
Editorial address	295007, Crimea Rep., Simferopol, Academician Vernadsky Avenue, 2, room. 216
Languages	Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=566807

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Bulletin of the Institute of Physics and Technology of the Crimean Federal University named after V.I. Vernadsky

Certificate number	PI No. FS 77 - 67350
Date of registration	05.10.2016
certificate status	the action was terminated on 03/04/2022 By the decision of the founders

Media name	Bulletin of the Institute of Physics and Technology of the Crimean Federal University named after V.I. Vernadsky
Distribution form	print media magazine
Distribution area	the Russian Federation
Founders	Federal State Autonomous Educational Institution of Higher Education "Crimean Federal University named after V.I. Vernadsky"
Editorial address	295007, Crimea Rep., Simferopol, Academician Vernadsky Avenue, 4
Languages	English Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=602843

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

YEVPATORIA.FM

Certificate number	EL No. TU 91 - 00115
Date of registration	26.02.2015
certificate status	the action was terminated on 20.07.2021
	By a court decision
Media name	YEVPATORIA.FM
Distribution form	radio channel
Distribution area	Republic of Crimea

Founders	Gromov S.B.
Editorial address	297400, Crimea Rep., Evpatoria, st. 60 years of October, 26
Languages	Russian, Crimean Tatar, Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=543311

MINISTRY OF DIGITAL DEVELOPMENT, COMMUNICATIONS AND MASS COMMUNICATIONS OF THE RUSSIAN FEDERATION

FEDERAL SERVICE FOR SUPERVISION IN THE SPHERE OF COMMUNICATIONS, INFORMATION TECHNOLOGIES AND MASS COMMUNICATIONS

(ROSKOMNADZOR)

Review of Crimean Affairs

Certificate number	PI No. TU 91 - 00008
Date of registration	07/31/2014
certificate status	terminated on 01/10/2022
	By court decision
Media name	Review of Crimean Affairs
Distribution form	print media newspaper
Distribution area	Republic of Crimea
Founders	Nikityuk A.N.
Editorial address	Crimea Rep., Evpatoria, st. Demysheva, d. 100A, office. one
Languages	Russian Ukrainian

Article address: https://rkn.gov.ru/mass-communications/reestr/media/?id=506211

Annex 99

Ruling of the Supreme Court of the Russian Federation No. 310-ES19-8542
(19 June 2019)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Ruling of June 19, 2019 in case No. A83-19694/2017
Supreme Court of the Russian Federation

SUPREME COURT OF THE RUSSIA FEDERATION

No. 310-ES19-8542

RULING

The city of Moscow

June 19, 2019

Judge of the Supreme Court of the Russian Federation Borisova E.E., having studied the cassation appeal of the Office of the Crimean Eparchy of the Ukrainian Orthodox Church of the Kyiv Patriarchate against the decision of the Arbitration Court of the Republic of Crimea of 19 September 19 in case No. A83-19694/2017, the decision of the Twenty-First Arbitration Court of Appeal of 14 December 2018, the decision of the Central District Arbitration Court of 18 March 2019 in the same case

based on the claim of the Office of the Crimean Eparchy of the Ukrainian Orthodox Church of the Kyiv Patriarchy against the Ministry of Defense of the Russian Federation on the removal of an obstacle in the use of the premises,

with the participation of third parties who do not declare independent claims regarding the subject of the dispute: the Federal State Public Institution "Crimean Territorial Administration of Property Relations", the Council of Ministers of the Republic of Crimea, the Orthodox Religious Organization "Simferopol and Crimean Eparchy",

ESTABLISHED:

that by the decision of the Arbitration Court of the Republic of Crimea of 19 September 2018, left unchanged by the decision of the Twenty-First Arbitration Court of Appeal of 14 December 2018, and the decision of the Central District Arbitration Court 18 March 2019, the claims were dismissed.

In a cassation appeal filed with the Supreme Court of the Russian Federation, the Office of the Crimean Eparchy of the Ukrainian Orthodox Church of the Kyiv Patriarchy seeks cancellation of the appealed judicial acts, referring to the violation by the court of the norms of substantive and procedural law.

In accordance with clause 1 of part 7 of Article 291.6 of the Arbitration Procedure Code of the Russian Federation, based on the results of studying the cassation appeal, the judge of the Supreme Court of the Russian Federation issues a ruling on the refusal to transfer the cassation appeal for consideration in a judicial session of the Judicial Collegium of the Supreme Court of the Russian Federation, if the arguments set forth in the cassation appeal do not confirm significant violations of substantive law and (or) the rules of procedural law that influenced the outcome of the case, and are not sufficient grounds for reviewing judicial acts in cassation.

After examining the arguments set out in the cassation complaint, the court concluded that there were no grounds for satisfying it.

When resolving a dispute, the courts, guided by the provisions of Articles 301 - 304 of the Civil Code of the Russian Federation, clarifications given in paragraph 45 of the Resolution of the Plenum of the Supreme Court of the Russian Federation and the Plenum of the Supreme Arbitration Court of the Russian Federation of 29 April 2010 No. 10/22 “On some issues arising in judicial practice in resolving disputes related to the protection of property rights and other rights in rem”, having examined and evaluated, in accordance with Article 71 of the Arbitration Procedure Code of the Russian Federation, the evidence available in the case, establishing that the owner of the disputed real estate is the Russian Federation represented by the Ministry of Defense of the Russian Federation, the building in which the temple was previously located is located on the territory of a military facility with restricted entry, reasonably came to the conclusion that there were no grounds for satisfying the claims.

The arguments of the cassation appeal are similar to the arguments stated in the lower courts, which were given a proper legal assessment, factually.

In view of the foregoing, the complaint is not subject to transfer for consideration in the judicial session of the Judicial Collegium of the Supreme Court of the Russian Federation, since the arguments given in it do not confirm the significant violations by the court of the norms of substantive and procedural law that influenced the outcome of the case.

In view of the foregoing and guided by articles 291.6, 291.8 of the Arbitration Procedure Code of the Russian Federation,

RULED:

to refuse to transfer the cassation appeal of the Office of the Crimean Eparchy of the Ukrainian Orthodox Church of the Kyiv Patriarchy for consideration in a judicial session of the Judicial Collegium for Economic Disputes of the Supreme Court of the Russian Federation.

Judge of the Supreme Court of the Russian Federation

E.E. Borisova

Court:

Supreme Court of the Russian Federation (details)

Plaintiffs:

Office of the Crimean Eparchy of the Ukrainian Orthodox Church of the Kyiv Patriarchate (more details)

Defendants:

Ministry of Defense of the Russian Federation (details)

Other entities:

Council of Ministers of the Republic of Crimea (details)

Federal State Institution "Crimean Territorial Administration of Property Relations" (details)

Orthodox "Simferopol and Crimean Eparchy" (details)

Annex 100

Ruling of the Supreme Court of the Russian Federation No. 310-ES18-18876
(23 November 2018)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

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COPY

SUPREME COURT
OF THE RUSSIAN FEDERATION

No. 310-ES18-18876

RULING

Moscow 23 November 2018

Judge of the Supreme Court of the Russian Federation Mrs. Pronina M.V., having studied the cassation appeal dated 14 September 2018 of the Office of the Crimean Eparchy of the Ukrainian Orthodox Church of the Kyiv Patriarchate (the "Office of the Crimean Eparchy") against the Decision of the Arbitration Court of the Republic of Crimea dated 20 December 2017 in Case No. A83-13977/2017, the Resolution of the Twenty-First Arbitration Court of Appeal dated 19 April 2018 and the Resolution of the Arbitration Court of the Central District dated 24 August 2018 in the same case

initiated upon the claim of the Office of the Crimean Eparchy to the officials of the Department of Bailiffs for the Central District of Simferopol of the Office of the Federal Bailiff Service for the Republic of Crimea (the "Central Bailiff Service"), the Office of the Federal Bailiff Service for the Republic of Crimea, seeking the recognition of the following as unlawful: the actions to enter the premises of the building at 17-a Sevastopolskaya street, Simferopol and their transfer to the Ministry of Property and Land Relations of the Republic of Crimea, the obligation to return the mentioned premises and the property located in them,

with the participation of third parties that do not declare independent claims regarding the subject of the dispute - Crimean Orthodox Spiritual Center Limited Liability Company ("Crimean Orthodox Spiritual Center LLC"), the Ministry of Property and Land Relations of the Republic of Crimea (the "Ministry"),

established:

by the Decision of the Arbitration Court of the Republic of Crimea dated 20 December 2017, which was upheld by the Resolution of the Twenty-First Arbitration Court of Appeal dated 19 April 2018 and the Resolution of the Arbitration Court of the Central District dated 24 August 2018, the lawsuit was dismissed.

In the cassation appeal filed with the Supreme Court of the Russian Federation, the Office of the Crimean Eparchy objects to the mentioned judicial acts and seeks their cancellation, by referring to the violation by the courts of the norms of substantive and procedural law, the incomplete clarification of the circumstances of the case.

According to paragraph 1 of Part 7 of Article 291.6 of the Arbitration Procedure Code of the Russian Federation, based on the results of studying the cassation appeal, the judge of the Supreme Court of the Russian Federation shall render a ruling on the refusal to transfer the cassation appeal, its presentation for consideration in a judicial session of the Judicial Board of the Supreme Court of the Russian Federation, if the arguments stated in the cassation appeal or submission provide no evidence of significant violations of substantive law and/or procedural law that affected the outcome of the case, and cannot serve as sufficient grounds for reviewing judicial acts in cassation proceedings and/or for resolving the issue of awarding compensation for violation of the right to legal proceedings within a reasonable time, as well as if these arguments are not confirmed by the case file.

There are no grounds for reviewing the appealed judicial acts in the cassation procedure based on the arguments of the statement of cassation appeal.

As seen from the judicial acts, on the basis of a writ of execution issued by the Arbitration Court of the Republic of Crimea in Case No. A83-2142/2015, the bailiff of the Central Bailiff Service initiated enforcement proceedings against Crimean Orthodox Spiritual Center LLC on the obligation to transfer to the ministry under the handover certificate the following property belonging to the Republic of Crimea: non-residential premises with an area of 112.6 sq. m, located on the ground floor of the building at the address: 17-a Sevastopolskaya street, Simferopol, as well as pay a penalty in the amount of RUB 591,128.65 and court costs in the amount of RUB 16,383.00.

As part of the enforcement proceedings, on 31 August 2017, the bailiff visited the address of the debtor. The absence of the debtor at the address specified in the enforcement document was established.

On the same day, in the course of taking actions to execute the enforcement document, the property was discovered that was included in the Act of Inventory and Seizure of Property.

According to the Act dated 31 August 2017, the specified property, due to the absence of the debtor, was transferred to the recoverer for safekeeping. Enforcement proceedings were completed on 01 September 2017.

The Office of the Crimean Eparchy, not being a party to the enforcement proceedings, however, pointing to the actual ownership of the disputed premises and the ownership of the described property, appealed to the arbitration court with a claim in the present case.

Having examined the circumstances of the case and assessed the available evidence in accordance with Articles 65, 71, 198, 200, 201 of the Arbitration Procedure Code of the Russian Federation, guided by Articles 64, 68, 80, 107 of Federal Law No. 229-FZ dated 02 October 2007 "On Enforcement Proceedings", the courts found the actions of the bailiff-executor to be legal and justified.

The courts considered that within the framework of Case No. A83-2142/2015 it was established that the disputed premises are in the possession of the Crimean Orthodox Spiritual Center LLC. By the Resolution of the Arbitration Court of the Central District of 29 September 2016, the proceedings on the cassation appeal of the Office of the Crimean Eparchy against judicial acts in the said case, filed in accordance with Article 42 of the Arbitration Procedure Code of the Russian Federation, were terminated. In this regard, the courts rejected the statement of the Office of the Crimean Eparchy on the actual ownership of the premises and concluded that the contested actions of the bailiff did not violate the rights and interests of the Office.

It was also explained to the Office of the Crimean Eparchy that if it has any legal claims against the property that was located in the disputed premises and included in the inventory, it has the right to file a claim seeking the exclusion of property from the inventory and from seizure. Within the framework of this dispute, that is being considered under the rules of Chapter 24 of the Arbitration Procedure Code of the Russian Federation, such claims cannot be considered.

In the cassation appeal, the Office of the Crimean Eparchy repeats its position on the case, insisting that the enforcement actions were taken against an improper person, as well as stating arguments regarding the merits of the dispute that was considered in Case No. A83-2142/2015. In fact, the arguments of the cassation appeal are aimed at re-evaluating the evidence in the case and establishing new circumstances within its framework, including the recognition of the right, which is not within the powers of the cassation instance of the Supreme Court of the Russian

Federation, as defined by Article 291.14 of the Arbitration Procedure Code of the Russian Federation.

The courts allowed no significant violations of substantive law and procedural law that could affect the outcome of the trial.

Guided by Articles 291.6, 291.8 of the Arbitration Procedure Code of the Russian Federation, the Judge of the Supreme Court of the Russian Federation

ruled:

to refuse to transfer the cassation appeal to the Office of the Crimean Eparchy of the Ukrainian Orthodox Church of the Kyiv Patriarchate for consideration at a court session of the Judicial Board for Economic Disputes of the Supreme Court of the Russian Federation.

Judge of the Supreme Court of the Russian Federation	/signature/ /round seal: SUPREME COURT OF THE RUSSIAN FEDERATION/ /stamp: "TRUE" Leading Consultant of the Judicial Board for Economic Disputes of the Supreme Court of the Russian Federation. Starostina (Initials, surname) 27 11 20 18/	M. V. Pronina

Annex 101

Default judgement of Yevpatoria City Court in Case No. 2-2176/2019
(6 November 2019)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Case No. 2-2176/2019
91K80009-01-2019-003261-28

DEFAULT JUDGMENT
[judgment *in absentia*]

In the name of the Russian Federation

06 November 2019

Yevpatoria City Court of the Republic of Crimea consisting of:
Presiding Judge Lobanova G.B.,
the Secretary of the court session: Alferov K.I.,
with the participation of the representative of the Plaintiff Folomeeva A.N.,
having considered in an open court session a civil case based on a claim filed by the Administration of the City of Yevpatoria of the Republic of Crimea against the Community in the Name of the Precious Image of the Mother of God "The Burning Bush", the Office of the Crimean Eparchy of the Ukrainian Orthodox Church, a third party – the Department of Municipal Control of the Administration of the City of Yevpatoria of the Republic of Crimea, Okhtin Sergey Ivanovich, seeking the release of the municipal land plot and the dismantling of the erected structure.

ESTABLISHED:

The Administration of the city of Yevpatoria of the Republic of Crimea filed a lawsuit against the Community in the Name of the Precious Image of the Mother of God "The Burning Bush", the Office of the Crimean Eparchy of the Ukrainian Orthodox Church, a third party –the Department of Municipal Control of the Administration of the City of Yevpatoria of the Republic of Crimea, Okhtin Sergey Ivanovich seeking to vacate the municipal land plot and to carry out works on the dismantling of the erected structure. In support of its claims, the Administration noted that the Department of Municipal Control of the Administration of the City of Yevpatoria of the Republic of Crimea carried out an inspection in relation to the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" in terms of compliance with the use of the requirements of land and urban planning legislation when using the land plot located at the following address: 133 Internatsionalnaya street, Yevpatoria.

During the inspection, it was established that the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" on the indicated land plot carried out the filling of a strip foundation, on which a structure of wooden beams (log house) with a height of more than 10 meters was constructed.

Information about the construction of the mentioned structure by the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" is confirmed by the explanations of the Archbishop Climent of Simferopol and Crimea dated 22 February 2019 who also explained that there are no permits, project documentation for the implementation of these construction works, title and confirming documents in relation to the constructed building, as well as by oral explanations of the responsible person of the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" in the city of Yevpatoriya Okhtin S.I.

During the inspection, the Community in the Name of the Precious Image of the Mother of God "The Burning Bush", did not provide the documents evidencing the right to use the specified land plot.

According to the information of the Department of Property and Land Relations of the Administration of the city of Yevpatoria dated 6 March 2019 No. 723/09, there is no lease agreement for the above land plot in the files of the Department.

According to information provided by the State Construction Supervision Service of the Republic of Crimea dated 27 February 2019 No. 11-09/1293, starting from 1 January 2015 and until the present time, no permit documents were registered or issued in relation to the following address: 133 Internatsionalnaya street, Yevpatoria.

For the period from 01 April 2014 to 31 December 2014, the Architectural and Construction Inspectorate of the Republic of Crimea did not register or issue any permits for the above mentioned address.

According to the information of the Department of Architecture and Urban Planning of the Administration of the city of Yevpatoria of the Republic of Crimea dated 28 February 2019 No. 493/01-09, urban planning conditions and building restrictions on the specified land plot were not issued. There was also no application filed for the development of an urban development plan.

Based on the available information in the Department of Architecture and Urban Planning of the Administration of the city of Yevpatoriya, no requests were received regarding the approval of the urban design project at the above address.

The Community in the Name of the Precious Image of the Mother of God "The Burning Bush" did not provide permits for construction work and the commissioning of this facility.

Also, during the inspection, the borders of the land plot arbitrarily used by the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" were measured using Makita LD050P laser rangefinder, serial number 1445220890 (verification certificate No. 03.2107.18 valid until 30 September 2019).

In the course of processing the measurement data, it was established that the Community in the Name of the Precious Image of the Mother of God “The Burning Bush” arbitrarily uses a land plot with a total area of 30.25 sq.m. (5.5 m x 5.5 m).

The Community in the Name of the Precious Image of the Mother of God "The Burning Bush" did not provide title documents for the land plot.

In addition, it was established that the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" in violation of Article 55 of the Urban Planning Code of the Russian Federation operates a capital construction facility located at the address: 133 Internatsionalnaya street, Yevpatoria in the absence of permission for the commissioning of this facility.

In order to verify the implementation of Order No. 12 of 29 March 2019, previously issued by the Department, on the basis of Instruction (Order) No. 154 dated 3 July 2019, a visit was made on 8 July 2019 to the inspected land plot, during which it was established that the specified Order within the prescribed period was not performed by the Community in the Name of the Precious Image of the Mother of God "The Burning Bush", in connection with which a protocol on an administrative offence was drawn up in relation to the latter, under Part 1 of Article 19.5 of the Code of Administrative Offenses of the Russian Federation, which was sent to the justice of the peace of court district No. 38 of the Yevpatoriya judicial district (Yevpatoria city district) of the Republic of Crimea for consideration and rendering a judgment within its competence.

Construction and installation works on the territory of the household were carried out without appropriate approvals from the local government and without permits from the State Construction Supervision Service.

In the pre-trial stage, the Defendant did not provide evidence of the adoption of measures to legalize the construction. The Plaintiff seeks the court to oblige the Defendant to vacate a municipal land plot with a total area of 30.25 sq.m., located at 133 Internatsionalnaya street, Yevpatoria by dismantling the structure erected on it, namely: the strip foundation and the structure erected on it using wooden beams (log house) with a height of more than 10 meters. The Plaintiff also seeks to oblige the Defendant to carry out works on the dismantling of the erected structure, namely: the strip foundation and the structure erected on it using wooden beams (log house) of more than 10 meters high, located at 133 Internatsionalnaya street, Yevpatoria.

By the Ruling of the Yevpatoria City Court of 17 October 2019, the Office of the Crimean Eparchy of the Ukrainian Orthodox Church was brought into case as a co-Defendant, and Okhtin Sergey Ivanovich was brought into case as a third party declaring no independent claims regarding the subject of the dispute.

At the hearing, the representative of the Administration of the city of Yevpatoria of the Republic of Crimea, acting on the basis of Power of Attorney No. 1189/02-29 dated 24 April 2019, Folomeeva A.N. supported the claims, explained that the presence of unauthorized construction of the Defendants on the land plot, the rightful owner of which is the Plaintiff, violate the rights and legitimate interests of the Plaintiff in the case, as it creates obstacles to use this land plot in full, encumbers it with the illegal rights of the owners of the unauthorized construction, therefore, she believes that their violated

right is subject to restoration by demolishing the object, and she asked to satisfy the lawsuit based on the grounds mentioned therein.

Defendants, namely: Community in the Name of the Precious Image of the Mother of God "The Burning Bush", and the Office of the Crimean Eparchy of the Ukrainian Orthodox Church did not appear at the court session, although they were duly notified. They did not provide any motions seeking adjournment of the trial or confirming the inability to appear for good reasons, as well as they did not provide any objections to the claim.

*****

The non-appearance of a person duly notified about the time and place of consideration of the case is considered as such person's will that evidences the refusal to exercise its right to participate directly in the trial of the case and other procedural rights, and therefore such non-appearance does not preclude the court to consider the case on the merits. This conclusion does not contradict the provisions of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 7, 8, 10 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights. As the law grants equal scope of procedural rights listed in Article 35 of the Civil Procedure Code of the Russian Federation, the absence of persons at the court session cannot be regarded as a violation of the principle of competitiveness and equality of the parties.

For the above reasons, the court considers it possible, with the consent of the Plaintiff's representative, to consider the case in the absence of the Defendants in the course of in absentia proceedings, which meets the requirements of Article 233 of the Civil Procedure Code of the Russian Federation.

Third parties, namely Department of Municipal Control of the Administration of the city of Yevpatoria of the Republic of Crimea, and Okhtin S.I., did not appear at the court session, although they were duly notified.

After having heard the representative of the Plaintiff and after having examined the case file, the court concludes that there are legal grounds for satisfying the claims.

*****

In accordance with Article 22 of the Land Code of the Russian Federation, foreign citizens, as well as stateless persons, may possess land plots located within the territory of the Russian Federation on the basis of the right of lease, except for the cases provided for by this Code. Land plots, with the exception of those specified in paragraph 4 of Article 27 of this Code, may be leased by their owners in accordance with civil law and this Code.

*****

The court has established based on the case file that the Community in the Name of the Precious Image of the Mother of God "The Burning Bush", having no reason to use the land plot from the public lands at the address: 133 Internatsionalnaya street, Yevpatoria, installed a strip foundation and erected on it a structure made of wooden beams (log house) with a height of more than 10 meters, which is confirmed by the materials of the inspection of the Department of Municipal Control of the Administration of the City of Yevpatoria of the Republic of Crimea.

Information about the construction of the mentioned building by the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" is confirmed by the explanations of the Archbishop Climent of Simferopol and Crimea dated 22 February 2019 who also explained that there

are no permits, project documentation for the implementation of these construction works, title and confirming documents in relation to the constructed building, as well as by oral explanations of the responsible person of the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" in the city of Yevpatoriya Okhtin S.I.

At the time of consideration of the civil case, the records of the Department of Property and Land Relations of the Administration of the City of Yevpatoria of the Republic of Crimea contain no information about a lease or use of the land plot on which unauthorized buildings indicated in the subject of the claim were constructed.

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During the inspection by the Department of Municipal Control of the Administration of the City of Yevpatoria, the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" presented no documents confirming the right to use the specified land plot.

According to the information of the Department of Property and Land Relations of the Administration of the city of Yevpatoria dated 6 March 2019 No. 723/09, there is no lease agreement for the above land plot in the files of the Department.

According to the State Construction Supervision Service of the Republic of Crimea dated 27 February 2019 No. 11-09/1293 for the period from 1 January 2015 until the present time, no permit documents were registered or issued in relation to the following address: 133 Internatsionalnaya street, Yevpatoria.

For the period from 01 April 2014 to 31 December 2014, the Architectural and Construction Inspectorate of the Republic of Crimea did not register or issue permits for the mentioned address.

According to the information of the Department of Architecture and Urban Planning of the Administration of the city of Yevpatoria of the Republic of Crimea dated 28 February 2019 No. 493/01-09, urban planning conditions and building restrictions on the specified land plot were not issued. There was also no application for the development of an urban development plan.

Based on the available information in the Department of Architecture and Urban Planning of the Administration of the city of Yevpatoriya, no requests were received regarding the approval of the urban design project at the above address.

The Community in the Name of the Precious Image of the Mother of God "The Burning Bush" did not provide permits for construction work and the commissioning of this facility.

Also, during the inspection, the borders of the land plot arbitrarily used by the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" were measured using Makita LD050P laser rangefinder, serial number 1445220890 (verification certificate No. 03.2107.18 valid until 30 September 2019).

In the course of processing the measurement data, it was established that the Community in the Name of the Precious Image of the Mother of God “The Burning Bush” arbitrarily uses a land plot with a total area of 30.25 sq.m. (5.5 m x 5.5 m).

*****

Thus, during the inspection, it was established that the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" uses a land plot with a total area of 30.25 sq.m, located in the cadastral quarter 90:18:010141 in the absence of title and title documents for the land plot, which is a violation of the requirements of part 1 of Article 26 of the Land Code of the Russian Federation.

In addition, it was established that the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" in violation of Article 55 of the Urban Planning Code of the Russian Federation operates a capital construction facility located at 133 Internatsionalnaya street, Yevpatoria in the absence of a permit for the commissioning of this facility.

*****

In order to verify the implementation of Order No. 12 of 29 March 2019, previously issued by the Department, on the basis of Instruction (Order) No. 154 dated 3 July 2019, a visit was made on 8 July 2019 to the inspected land plot, during which it was established that the specified Order within the prescribed period was not implemented by the Community in the Name of the Precious Image of the Mother of God "the Burning Bush", in connection with which a protocol on an administrative offence was drawn up in relation to the latter, under Part 1 of Article 19.5 of the Code of Administrative Offenses of the Russian Federation, which was sent to the justice of the peace of court district No. 38 of the Yevpatoriya judicial district (Yevpatoria city district) of the Republic of Crimea for consideration and rendering a judgment within its competence.

Construction and installation works on the territory of the household were carried out without appropriate approvals from the local government and without permits from the State Construction Supervision Service.

This object of unauthorized construction was created by the Defendant on a land plot not allocated for the construction of capital construction projects. As a general rule, the legal regime of land is determined on the basis of its belonging to a certain category of land with a specific designated purpose and permitted use in accordance with the zoning of the territory and the requirements of the applicable legislation. Zoning of territories for construction is governed by the Urban Planning Code of the Russian Federation which defines the concept of specific types and composition of territorial zones, as well as types of permitted use of land plots and capital construction projects. In this case, the Defendant did not carry out the special allotment of the land plot for construction.

*****

According to paragraph 3 of Article 222 of the Civil Code of the Russian Federation, the right of ownership of an unauthorized construction may be recognized by a court, and in cases provided for by law in another manner established by law, in favor of a person who owns it, inherited it for life, who has the right of permanent (unlimited) use of the land plot where the construction was carried out. In this case, the person who has been recognized as the owner of the construction shall reimburse the person who carried it out for the costs of the construction in the amount determined by the court. The right of ownership of an unauthorized construction cannot be recognized in favor of the said person if the preservation of the structure violates the rights and legally protected interests of other persons or poses a threat to the life and health of citizens.

Thus, for the construction of a real estate object, it is necessary to allocate a land plot for construction and obtain a permit from the relevant authority for such construction.

It follows from the content of the above legal norms that an unauthorized construction, as a general rule, is subject to demolition. However, there are exceptions to this rule that allow, under certain circumstances, to recognize the right of ownership of unauthorized construction.

The right of ownership to an unauthorized construction may be recognized by a court, and in cases provided for by law in another manner established by law, in favor of a person who owns it, inherited it for life, permanently (without expiration date) uses the land plot on which the construction was made, while simultaneously observing the following conditions: if, in relation to the land plot, the person who carried out the construction has the rights allowing the construction of this object on it: if, on the day of applying to the court, the construction complies with the parameters established by the territory planning documentation, land use rules: development or mandatory requirements for the construction parameters contained in other documents; and also if the preservation of the construction does not violate the rights and legally protected interests of other persons and does not pose a threat to the life and health of citizens.

Paragraph 30 of Resolution of the Plenum of the Supreme Court of the Russian Federation No. 10, of the Plenum of the Supreme Arbitration Court of the Russian Federation No. 22 dated 29 April 2010 "On Some Issues Arising in Practice in Resolving Disputes Related to the Protection of Ownership Rights and Other Property Rights" provides that, in accordance with Article 130 of the Civil Code of the Russian Federation, objects of construction in progress are classified by law as real estate.

Based on paragraph 1 of Article 222 of the Civil Code of the Russian Federation, not only residential construction, other construction, structure, may be recognized as unauthorized construction

but also other real estates. Consequently, an object of construction in progress as real estate can also be recognized as an unauthorized construction. The right of ownership may be recognized for an object of construction in progress as an unauthorized construction if there are grounds established by Article 222 of the Civil Code of the Russian Federation.

*****

Evidence shall be presented by the parties and other persons participating in the case. The court has the right to invite them to submit additional evidence. If it is not feasible for these persons to present evidence, the court, at their request, shall assist in the collection and reclamation of evidence (Part 1 of Article 57 of the Civil Procedure Code of the Russian Federation).

While observing independence, objectivity and impartiality, the court, in accordance with Article 12 of the Code of Civil Procedure of the Russian Federation, provided the parties to the dispute with equal opportunity to prove the circumstances to which the parties referred in substantiation of their legal positions, all significant circumstances in the case were presented to parties for discussion as provided for by Part 2 of Article 56 of the Civil Procedure Code of the Russian Federation.

*****

By virtue of the principle of competitiveness provided for by Article 12 of the Civil Procedure Code of the Russian Federation, the parties, if they wish to achieve the most favorable judgment for themselves, are obliged to inform the court of legal facts that are essential to the case, present evidence to the court confirming or refuting these facts, and also perform other procedural actions aimed at convincing the court that they are right. The presented evidence allows the court to conclude that the claims made by the Plaintiff seeking that the Defendant vacates the municipal land plot with a total area of 30.25 sq.m., located at the address: 133 Internatsionalnaya street, Yevpatoria, are substantiated.

*****

In accordance with the provisions of Article 67 of the Civil Procedure Code of the Russian Federation, the court shall evaluate the evidence according to its inner conviction, based on a comprehensive, complete, objective and direct examination of the evidence in the case.

*****

In accordance with Article 56 of the Civil Procedure Code of the Russian Federation, the Defendants did not provide the court with evidence confirming the legitimate use of the land plot.

Having established that the Defendants have no legal grounds for placing the structure and the strip foundation on a municipal land plot, the court obliges that they shall be demolished and dismantled.

Since the court obliges the Defendants to perform certain actions, it is necessary to establish a time limit for their implementation. Given the specific circumstances of the case, the court believes that it is reasonable, taking into account the interests of both parties, to establish a period of one (1) month from the date the judgment enters into legal force.

*****

Based on the above and guided by Articles 233-235 of the Civil Code of the Russian Federation, the court

RULED:

To satisfy the claim of the Administration of the city of Yevpatoria of the Republic of Crimea

against the Community in the Name of the Precious Image of the Mother of God "The Burning Bush", the Office of the Crimean Eparchy of the Ukrainian Orthodox Church, the third party – the Department of Municipal Control of the Administration of the city of Yevpatoria of the Republic of Crimea, Okhtin Sergey Ivanovich, seeking the vacation of the municipal land plot and the dismantling of the erected structure.

To oblige the Defendants, on a joint and several basis, to vacate the municipal land plot with a total area of 30.25 sq.m., located at the address: 133 Internatsionalnaya street, Yevpatoria by dismantling the structure erected on it, namely: the strip foundation and the structure erected on it from wooden beams (log house) with a height of more than 10 meters.

To oblige the Defendants, on a joint and several basis, namely the Community in the Name of the Precious Image of the Mother of God “The Burning Bush” and the Office of the Crimean Eparchy of the Ukrainian Orthodox Church, to carry out works to dismantle the erected structure, namely: the strip foundation and the structure erected on it from wooden beams (log house) with the height of more than 10 meters located at the address: 133 Internatsionalnaya street, Yevpatoria within one (1) month from the date of entry into force of the court judgment.

Collect, on a joint and several basis, from the Defendants, namely the Community in the Name of the Precious Image of the Mother of God "The Burning Bush" and the Office of the Crimean Eparchy of the Ukrainian Orthodox Church a state fee in the amount of RUB 600 in favor of the state.

The Defendant has the right to file a motion with the court seeking the cancellation of the default judgment within seven days from the date of delivery of a copy of the default judgment.

The judgment may be appealed within one month from the date of expiration of the deadline for filing a motion seeking to cancel the default judgment by filing an appeal petition to the Supreme Court of the Republic of Crimea through the Yevpatoria City Court of the Republic of Crimea.

Judge /signature/ G.B. Lobanova

The judgment in its final form was made on 08 November 2019.

/round seal: Yevpatoria City Court of the Republic of Crimea/

/stamp: TRUE COPY, Yevpatoria City Court of the Republic of Crimea, Judge Lobanova G.B./

/signature/

Annex 102

The Center for Counter-Extremism, The Ministry of Interior for the Republic of Crimea (8 February 2022)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

THE MINISTRY OF INTERIOR FOR THE REPUBLIC OF CRIMEA

We are serving Russia, serving the law!

The Center for Counter-Extremism

Head of the Center for Counter-Extremism, Colonel of Police
Oleg Borisovich Utkin

The main tasks of the Center are:

- identification, prevention, suppression and disclosure of crimes of a terrorist nature, crimes and offenses of an extremist nature, as well as the identification and identification of persons who prepare, commit or have committed them.

- protecting the legitimate interests of the individual, society and the state in the field of countering extremist activity and in the course of the participation of the internal affairs bodies of the Russian Federation in measures to counter terrorism.

- assistance to the territorial bodies of the Ministry of Internal Affairs of Russia at the district level, subordinate to the Ministry of Internal Affairs for the Republic of Crimea, in organizing the prevention of crimes of a terrorist nature, crimes and offenses of an extremist nature.

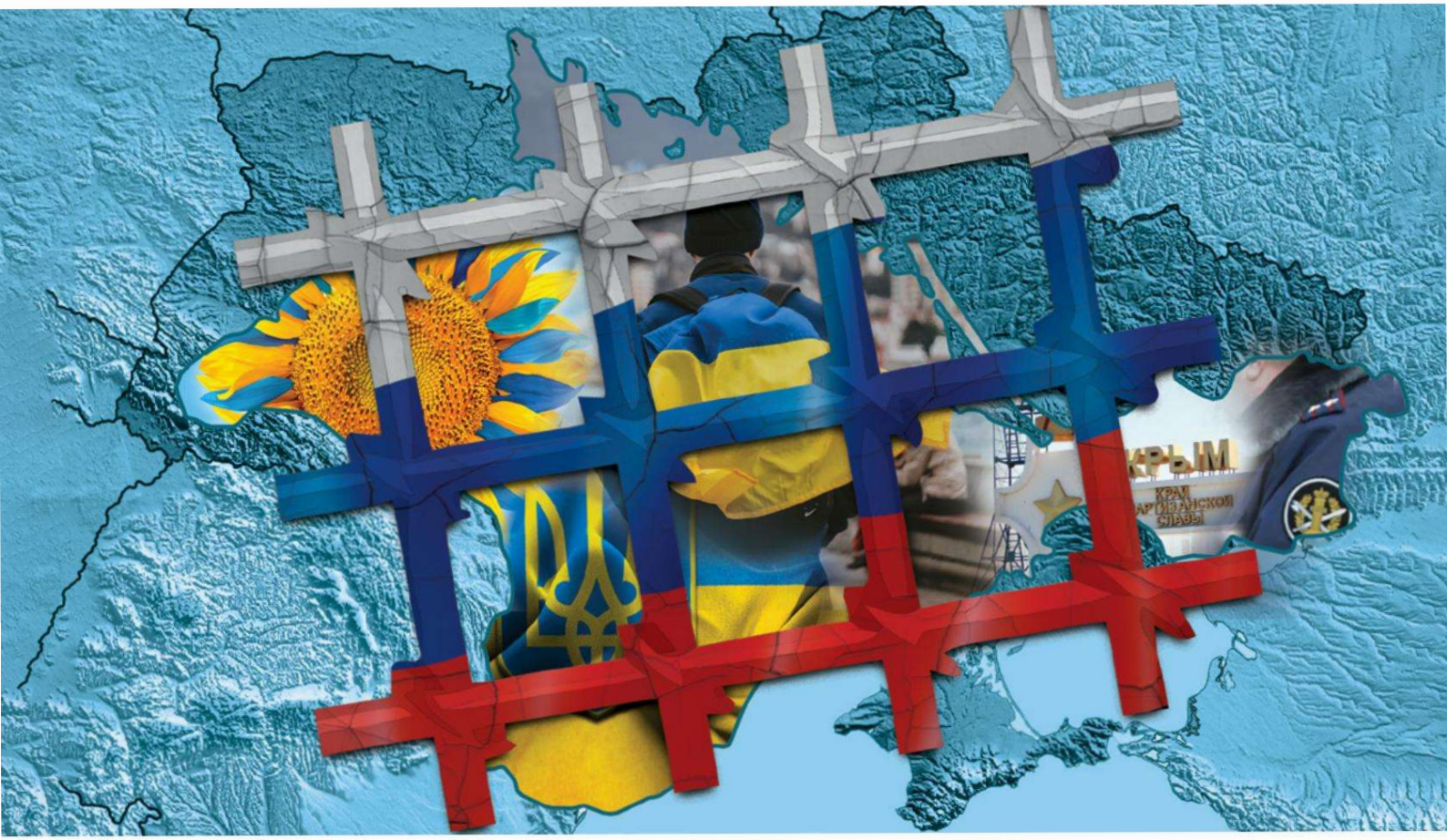
Annex 103

Crimean Human Rights Group, Overview of the Situation with Respect for Human Rights and Norms of the International Humanitarian Law in Crimea for 2020 (January 2021)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

КРИМСЬКА ПРАВОЗАХИСНА ГРУПА

email: crimeahrg@gmail.com website: crimeahrg.org



OVERVIEW OF THE SITUATION WITH RESPECT FOR HUMAN RIGHTS AND NORMS OF THE INTERNATIONAL HUMANITARIAN LAW IN CRIMEA FOR 2020

January 2021

Crimean Human Rights Group (CPG) is a non-governmental Ukrainian human rights organization of Crimean human rights defenders and journalists whose activities are aimed at promoting human rights protection in Crimea by drawing broad attention to human rights and international humanitarian law in the occupied territories of Crimea and Sevastopol. . The CPG focuses on documenting and constantly monitoring human rights violations and war crimes in connection with the occupation of the peninsula by the Russian Federation.

In preparing and disseminating information, the CNG is guided by the principles of objectivity, reliability and timeliness.

CONTENT

Monitoring of FM broadcasting in the north of Crimea has shown that the signal of Ukrainian radio stations is available only in 7 out of 19 settlements12. The blocking of signals is due to the broadcasting of the Crimean and Russian councils of stations on the same frequencies as the licenses of Ukrainian broadcasters. In addition, a new TV and radio tower was installed next to the Chaplynka checkpoint in the occupied territories, which is likely to be used to strengthen the blocking of the Ukrainian signal13.

2020 BLOCKING ACCESS TO INFORMATION

11 providers in Crimea block at least **25** Ukrainian sites and sites of the Crimean Tatar People's Majlis, Jehovah's Witnesses, and the Ministry of Reintegration of the Temporarily Occupied territories of Ukraine

The signal of Ukrainian radio stations is blocked in **12 of the 19** settlements in the north of Crimea

The occupying power installed a new TV and radio tower next to CPVV "Chaplinka"

FREEDOM OF ASSEMBLY AND ASSOCIATION

Freedom of assembly

There is a permit system in Crimea, according to which peaceful assemblies cannot be held without prior permission from the local "administration". Representatives of "administrations" in Crimea usually refuse to hold rallies that may contain criticism of the de facto government. The most common reason for refusing to hold a peaceful assembly is the allegation that at the same time and place another organization allegedly applied for another meeting.

The practice of intimidating activists continued in 2020, threatening to prosecute them in the event of an “uncoordinated” peaceful assembly. Police officers hand out warnings to the authorities in advance about the inadmissibility of holding rallies, indicating the administrative and criminal articles under which they may be prosecuted. The CPG has documented at least 42 such warnings in 2020.

On January 18, the Kerch city administration sent a statement to the local media threatening administrative harassment for holding mass events without the consent of the de facto authorities.

In December, under various contrived pretexts *(searching for stolen building materials, a missing COVID-19 patient, checking home books, etc.),* Russian Interior Ministry officials came to the home of Crimean Tatar activists who participated in peaceful rallies to collect personal data and information about members. family, place of work. In some cases, Interior Ministry officials directly stated that the reason for such a visit was active public activity and participation in peaceful assemblies. For example, Crimean Solidarity reported at least 25 such visits.

In the case of an "unauthorized" peaceful assembly, the organizers and participants are prosecuted under Art. 20.2 *(Violation of the order of holding meetings, rallies, demonstrations, marches or pickets)* and Art. 20.2.2 CAO RF *(Organization of mass simultaneous stay and (or)* movement of citizens in public places that led to a violation of public order). In addition, to the participants of peaceful assemblies in the Crimea, the Russian authorities apply Art. 19.3 of the Administrative Code *(Failure to comply with the requirements of a police officer)* and Art. 20.1 *(Petty hooliganism).* In 2020, the "courts" of Crimea and Sevastopol passed at least 17 decrees on administrative penalties under Articles 20.2 and 20.2.2 of the Administrative Code for participation in peaceful assemblies without the consent of the occupying authorities. Among them are 8 decisions on imposing fines totaling 135,000 rubles, 6 decisions on 5-day administrative arrest. Among the peaceful rallies, the organizers and participants of which were brought to justice, were meetings in de

12 https://crimeahrg.org/uk/nova-hvilya-blokuvannya-ukra%d1%97nskogo fm-movlennya-na-pivnochi-krimu-okupaczijnoyu-vladoyu-monitoring /

13 https://crimeahrg.org/uk/na-pivnochi-krimu-okupaczijna-vlada obladnala-novu-vezhu-dlya-blokuvannya-signalu-ukra%d1%97nskih fm-stanczij-2/

2020 VIOLATION OF FREEDOM OF ASSEMBLY

At least **42** warnings to activists about the inadmissibility of holding peaceful rallies

At least **25** police visits to Crimean Tatar activists

At least **17** resolutions on administrative penalties for participating in peaceful assemblies:

8 decisions on fines totaling **135,000** rubles **6** resolutions on **5-day** administrative arrest

holding a Friday prayer, a rally with the flags of Azerbaijan, a rally with the Crimean Tatar flags, a rally of the Communist Party, pickets criticizing the occupying power of the Russian Federation.

The Russian authorities continue to limit the number of places for peaceful assemblies in Crimea, which is one of the reasons for refusing to approve a peaceful assembly if the venue announced by the organizer is not included in this list.

In addition, the Russian authorities, through the COVID-19 pandemic in 2020, introduced a ban on peaceful assemblies and applied a new article to activists 20.6.1 of the Administrative Code *(Failure to comply with the rules of conduct in case of emergency or threat of its occurrence).* The number of decisions on the imposition of penalties under this article in April 2020 exceeded 14,000. It is important to note the episode of December 11, when Venus Mustafayev was fined 1,000 rubles under Art. 20.6.1 of the Administrative Code of the Russian Federation for holding a single picket in support of his son, human rights activist, a participant in the politically motivated "case of Crimean Muslims" Server Mustafayev. On December 18, journalist Vilen Temeryanov was fined 1,000 rubles for filming a rally in support of people involved in the Crimean Muslim case.

2020 VIOLATION OF FREEDOM OF ASSEMBLY

The current **ban on the** Crimean and Tara Majlis Majlis

Participants of the Crimean Tatar battalion named after N. Chelebidzhihan is **imprisoned**

Crimean Solidarity Activists Prosecuted and Imprisoned on **Hizb ut-Tahrir** Charges

Crimean Solidarity Coordinator **Server Mustafayev** sentenced to **14** years in a maximum security prison

Freedom of association

Ignoring the ruling of the International Court of Justice of April 19, 2017 on interim measures in the case *of "Application of the International Convention for the Suppression of the Financing of Terrorism and the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russia"),* Russia upheld the Crimean Tatar Majlis as an "extremist organization."

Participants of the Crimean Tatar Battalion named after Noman Chelebidzhikhan are persecuted under Part 2 of Art. 208 of the Criminal Code *(participation in illegal armed groups).* The declared investigation of the battalion's activity against the interests of the Russian Federation is the information in the media that the purpose of creating the battalion was to deoccupy Crimea.

Crimean Solidarity activists are subject to criminal and administrative prosecution, more than 20 of them have been victims of fabricated criminal cases on charges of participating in Hizb ut-Tahrir, and Crimean Solidarity coordinator Server Mustafayev was sentenced to 14 years in prison in 2020. strict regime colonies.

[14] The highest representative body of the Crimean Tatar people.

2. VIOLATION OF INTERNATIONAL HUMANITARIAN LAW

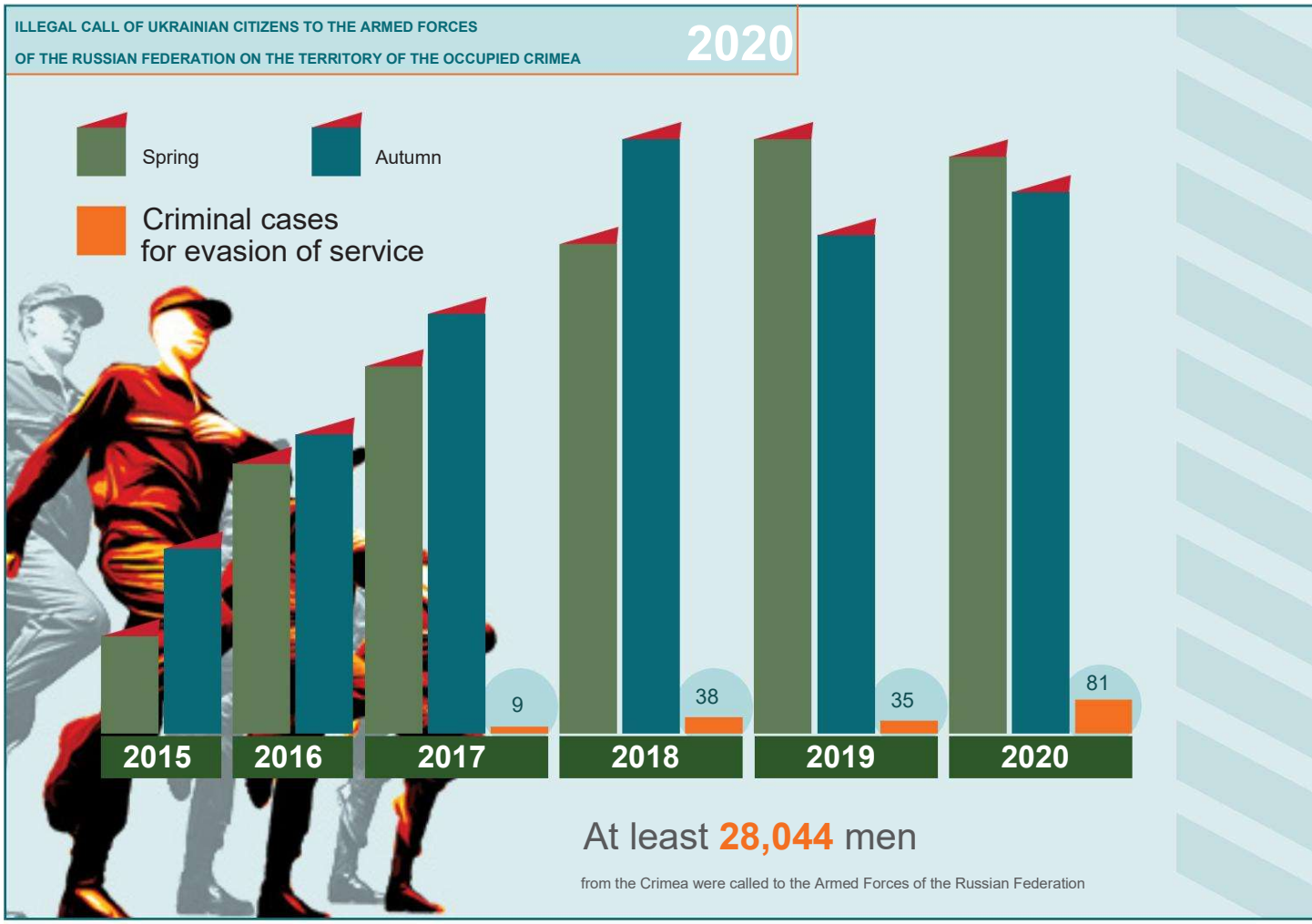
CONVENTION (IV) ON THE PROTECTION OF CIVILIAN POPULATION DURING WAR

Article 49. DEPORTATION OF CRIMINAL RESIDENTS FROM THE OCCUPIED TERRITORY TO THE TERRITORY OF THE RUSSIAN FEDERATION, AS WELL AS THE MOVEMENT OF CIVILIAN POPULATION FROM THE RUSSIAN FEDERATION TO THE OCCUPIED TERRITORY

The Russian authorities do not abandon the practice of forcible transfer of the Crimean population from the occupied peninsula to the territory of the Russian Federation. For example, prisoners are regularly taken from Crimea to colonies and pre-trial detention centers in Russia, conscripts are sent to military units in Russia, and Ukrainian citizens who have not received documents are deported from Crimea in accordance with Russian migration legislation.

In addition, the Russian authorities have consistently created conditions for the settlement of the occupied territory of Ukraine by Russian citizens. For example, the analysis of CNG data from the website "Office of the Federal State Statistics Service of the Republic of Crimea and Sevastopol" showed that in 2020 at the end of November "interregional migration movement" arrived in Crimea citizens of Russia amounted to 33,137 people (20,763 - in the Crimea for the period January-November 2020 and 12,374 - to the city of Sevastopol for the period January-October 2020).

In total, during the occupation, the number of Russian citizens who were in the Crimea was 205,559 (117,114 to the territory of the Autonomous Republic of Crimea and 88,445 to Sevastopol). Keep in mind that this may include relocation



residents from Sevastopol to the "Republic of Crimea" and in the opposite direction, or moving outside the Crimea, and then back to the peninsula. However, with this in mind, the total number of displaced Russian citizens in the Crimea is much higher, as these statistics do not take into account the military and law enforcement officers.

Article 51. CALL OF PERSONS LIVING IN THE OCCUPIED TERRITORY TO THE ARMY OF THE OCCUPIING STATE, AS WELL AS PROPAGANDA OF SERVICE IN THE ARMY

In 2020, the Russian authorities conducted two campaigns in Crimea to recruit Crimean residents to the Russian army, and a total of 12 mobilization campaigns were carried out during the occupation. According to the Crimean Military Commissariat and the Russian Ministry of Defense, in 2020 at least 6,300 conscripts were drafted into the Russian army. 3,300 people - in the spring campaign and at least 3,000 - in the autumn. Thus, a total of at least 28,044 people were mobilized from the Crimea to the Russian army during the occupation.

In 2020, the CPG documented 81 new criminal cases for evasion of service in the RF Armed Forces, submitted to the "courts" of Crimea15. During the entire period of occupation, the CPG recorded 163 such cases, 153 of which have already been sentenced, and another 10 are under consideration.

The Russian authorities are carrying out a large-scale propaganda campaign in the Russian army, in particular among children of primary and secondary school age. They are taught how to handle firearms - pistols, rifles and automatic firearms. Training takes place both during mass events in schools and public places, and in the conditions of special gatherings and children's camps for military pre-conscription training. The Russian authorities have organized and financed from the budget children's paramilitary formations - units of the "Unarmy" and "Krympatriotsentr" 16.

The facts of militarization of children and propaganda of service in the armed forces of the Russian Federation among are documented

In 2020, the CPG sent juveniles of the Crimea to the Office of the Prosecutor of the International Criminal Court (communication prepared jointly with the Prosecutor's Office of the Autonomous Republic of Crimea and the city of Sevastopol17
and the UN Committee on the Rights of the Child18.

Article 64. OBLIGATIONS TO REMAIN THE LEGISLATION OF THE OCCUPIED TERRITORY

Russia still applies only the rules of Russian law in the occupied territory of Ukraine. The administration of justice is also carried out on the basis of the legislation of the Russian Federation.

15 79 cases were initiated in 2020, 2 - in 2019.

16 https://crimeahrg.org/ru/iz-ukrainczev-v-rossiyan-skolko-rf-stoit smena-identichnosti-molodezhi-v-krymu/

17 https://crimeahrg.org/uk/propaganda-zbrojnih-sil-rf-sered-krimskih ditej-% d1% 94-elementom-primusu-do-sluzhbi-v-armi% d1% 97-occupant /

18 https://crimeahrg.org/wp-content/uploads/2020/11/ua_situacziya-z pravami-ditej-v-krimu-u-konteksti-okupaczii%CC%88-pivostrova-rf-1.pdf

Annex 104

Crimean Tatar Resource Center, In Crimea, Parents of Students are Forced to Refuse to Study in the Crimean Tatar Language at School (5 April 2021)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

КРЫМСКОТАТАРСКИЙ РЕСУРСНЫЙ ЦЕНТР
(/ru)

CRIMEAN TATAR RESOURCE CENTER

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In Crimea, parents of students are forced to refuse to study in the Crimean Tatar language at school

April 5, 2021

In the occupied Crimea, teachers at the Municipal Budgetary Educational Institution "Verkhorechenskaya Secondary School" of the Bakhchisaray District give parents a completed application form, where Russian is already entered instead of their native language. Activist Elmaz Kyrymly reports this on her Facebook page.

"In Crimean schools, parents are no longer simply "persuaded" to write a refusal to teach their children in their native Crimean Tatar language. Now, as happened in the Verkhorechenskaya secondary school (Bakhchisarai district), teachers issue a completed application form, where instead of NATIVE Crimean Tatar (and Ukrainian) as the language of instruction, the Russian language has already been entered. That is, there is no choice, even though the list includes the Crimean Tatar and Ukrainian languages. But this is so, an illusion of choice. After all, everything has already been written for the parents," the message says.

Victims of the occupation of Crimea

238 political prisoners and prosecuted in criminal cases during the occupation of Crimea, 169 of them are representatives of the Crimean Tatar people

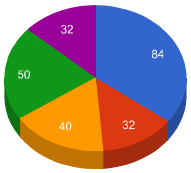


Chart is clickable

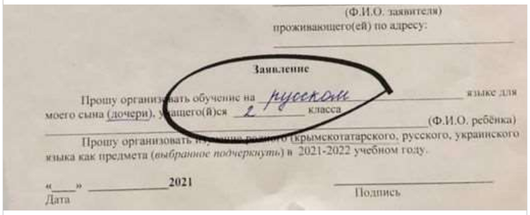
Show more diagrams (/ru/zhertvy-okkupacii)

Persons violating human rights in Crimea

Chart is clickable

Test: are you subject to sanctions?

Elmaz Qırımlı
about 12 months ago


(Ф.И.О. заявителя)
проживающего(ей) по адресу:

Заявление

Прошу организовать обучение на русском языке для моего сына (дочери), учащего(й)ся 2 класса
(Ф.И.О. ребёнка)

Прошу организовать изучение родного (крымскотатарского, русского, украинского языка как предмета (выбранное подчеркнуть) в 2021-2022 учебном году.

«___» ____________2021 Подпись
Дата

В крымских школах уже не просто настоятельно «уговаривают» родителей писать отказ от обучения их детей на родном крымскотатарском языке. Теперь, как это случилось в Верхореченской СОШ (Бахчисарайский р-н), учителя выдают заполненный бланк заявления, где вместо РОДНОГО крымскотатарского (и украинского) языка обучения уже вписан русский язык. Т.е выбора нет, хоть в перечне и прописан крымскотатарский и украинский языки. Но это так, иллюзия выбора. Ведь за родителей уже всё напи... See more

94 25 252

Recall that earlier there was already a case when the leadership in Simferopol school No. 8 conducts conversations with the parents of students and forces them to refuse to study the Crimean Tatar language.

(https://vk.com/share.php?url=https%3A%2F%2Fctrcenter.org%2Fru%2Fnews%2F6605-v-krymu-roditelej-uchenikov-vynuzhdayut-otkazatsya-ot-obucheniya-na-krymskot... %9A%D1
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(https://connect.ok.ru/offer?url=https%3A%2F%2Fctrcenter.org%2Fru%2Fnews%2F6605-v-krymu-roditelej-uchenikov-vynuzhdayut-otkazatsya-ot-obucheniya-na-krymsko...)%9A%D
(https://www.linkedin.com/shareArticle?mini=true&url=https%3A%2F%2Fctrcenter.org%2Fru%2Fnews%2F6605-v-krymu-roditelej-uchenikov-vynuzhdayut-otkazatsya-ot-o... itle=%D0

Tweets

Tweets by @ctrcenter

Crimean Tatar Resource Center
@ctrcenter
Replying to @ctrcenter
ctrcenter.org/uk/news/7578-k…

Mar 25, 2022

Crimean Tatar Resource Center
@ctrcenter
Dear @ ilirmetazyrtar @ POTUS @ RoyalFamily @ RTErdogan @ AndrzejDuda @ jonasgahrstore @ MinPres @ valstsgriba @ presidentisl @ OlafScholz , our children are asking to save their home, their relatives, friends and their lives. Shelter Ukrainian Sky! # RussianUkrainianWar # ShelterUkrainianSky

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Facebook (https://www.facebook.com/CTRC2015) youtube (https://www.youtube ... D1iQ4xjh-Q)

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(/ru/news/7579-flag-fashistskoj-rossii-ne-mozhet-nahoditsya-ryadom-s-flagami-stran-mira)
The flag of fascist Russia cannot be next to the flags of the countries of the world (/ru/news/7579-flag-fashistskoj-rossii-ne-mozhet-nahoditsya-ryadom-s-flagami-stran-mira)
March 28, 2022


(/ru/news/7578...
Hundreds of Ukrainian children have joined the children's campaign "Protect my sky!" (/ru/news/7578-krc-prizyvaet-vseh-prisoedinitsya-

Annex 105

Crimean Human Rights Group, Statement of Implementation Report Russian Federation International Legal Commitments in the Field Protection of Human Rights in the Occupied Territory of Crimea and Sevastopol (November 2021)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

КРИМСЬКА ПРАВОЗАХИСНА ГРУПА

ЗВІТ ЩОДО СТАНУ ВИКОНАННЯ РОСІЙСЬКОЮ ФЕДЕРАЦІЄЮ МІЖНАРОДНО-ПРАВОВИХ ЗОБОВ'ЯЗАНЬ В СФЕРІ ЗАХИСТУ ПРАВ ЛЮДИНИ НА ОКУПОВАНІЙ ТЕРИТОРІЇ АР КРИМ ТА М. СЕВАСТОПОЛЯ

з грудня 2020 року по листопад 2021 року

CRIMEA HUMAN RIGHTS GROUP

CONTENT

On November 26, **Dlyaver Memetov ,** coordinator of the Crimean Solidarity Association, and **Abdullah Seidametov ,** a journalist with the Crimean Solidarity and Grani.ru publications , were detained near the Crimean Garrison Military Court building . After their delivery to the Central Police Department, Abdullah Seidametov was released57.

The Russian authorities use technical means to prevent the broadcasting of Ukrainian media in Crimea: During the reporting period, the CPG conducted a number of monitoring of the Crimean population's access to Ukrainian media, which showed a tendency to increasingly restrict such access by Russia:

1) Monitoring of FM broadcasting conducted by KPG in early February in 19 settlements of Kherson region showed that the Russian authorities blocked the frequencies of Ukrainian radio stations in the territory controlled by the Ukrainian government from the territory of the occupied Crimea by broadcasting Russian stations on these waves58.

A monitoring of FM broadcasting in northern Crimea conducted by the KGB in March showed that 5 radio stations had been blocked in the Chaplynka area and 640 in the Chongar area. Ukrainian broadcasting has been available in a total of 13 settlements since 1959.

In June the CPG witnessed a significant deterioration in the situation with the signal of Ukrainian radio stations. Ukrainian broadcasting was available in June in 8 of 19 settlements. Moreover, the radio station of the Ministry of Defense of the Russian Federation "Zirka" completely muffled the Ukrainian radio "NV" with its signal 60.

The KPG's monitoring of FM radio broadcasting in July showed that in 19 settlements in the south of the Kherson region, Ukrainian radio stations were blocked by a Russian signal broadcast from the occupied Crimea. At least 34 Ukrainian FM frequencies are overlapped by the signal of 37 Russian radio stations61.

Monitoring of radio broadcasting by the CPG in September in the north of Crimea showed that Ukrainian broadcasting has been available in only 5 settlements since 1962.

2) Monitoring of access to Ukrainian Internet resources by the CPG in March among Crimean providers showed that at least 12 providers in 12 Crimean settlements completely blocked the sites of 22 Ukrainian media and 5 sites of religious or governmental organizations63.

A monitoring of access to Internet resources conducted by KPG in June showed that 12 providers in 12 settlements completely blocked 18 Ukrainian sites. Another 9 sites are available only in some settlements64. Since July, access to the Crimean Human Rights Group's website has been blocked by many providers in Crimea "for encroaching on Russia's security" 65.

The CPG's monitoring of access to websites in September showed that 14 providers in 13 localities completely blocked 9 information sites, and 19 sites were available to only one provider from the monitoring list66.

3. FREEDOM OF PEACEFUL ASSEMBLY

The right to peaceful assembly is recognized in Article 21 of the International Covenant on Civil and Political Rights. According to Art. 22 of the Covenant, everyone has the right to freedom of association with others. This right is also established by Art. 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Authorities use penalties for participating in group and individual pickets and filming such events. To ensure the "legality" of detentions, formal grounds for detention may be used, such as non-compliance with quarantine restrictions, although at the same time de facto government-organized events with mass congestion are being carried out in Crimea.

57 https://crimeahrg.org/wp-content/uploads/2021/12/crimean-human-rights-group_nov_en.pdf
58 https://crimeahrg.org/en/occupation-authorities-of-crimea-jamming-ukrainian-fm-stations-in-the-south-of-kherson-region/
59 https://crimeahrg.org/en/russia-continues-to-block-fm-radio-broadcasting-in-northern-crimea/
60 https://crimeahrg.org/en/occupation-authorities-intensified-again-jamming-ukrainian-radio-signal-in-north-of-crimea/
61 https://crimeahrg.org/en/russian-occupation-authorities-radio-broadcasting-at-minimum-34-radio-frequencies/
62 https://crimeahrg.org/uk/na-pivnochi-krimu-znovu-posilili-blokuvannya-signalu-ukra%d1%97nskih-fm-stanczij/
63 https://crimeahrg.org/en/at-least-12-crimean-providers-blocking-ukrainian-websites-in-crimea/
64 https://crimeahrg.org/en/12-providers-blocking-27-ukrainian-websites-in-crimea/
65 https://crimeahrg.org/en/website-of-the-crimean-human-rights-group-blocked-in-crimea-for-undermining-of-security-of-the-rf/
66 https://crimeahrg.org/uk/u-krimu-czilkom-blokuyut-9-informaczijnih-sajtiv-novij-monitoring-kpg/

dej. In addition, Russian police in Crimea often personally warned activists in advance of their illegal participation in planned rallies, as such rallies would allegedly violate Russian law on rallies and anti-extremism legislation.

The Crimean Human Rights Group has documented numerous cases of restriction of freedom of peaceful assembly and sentencing to administrative arrest and fines. The Russian authorities and their controlled bodies in the occupied Crimea systematically obstruct peaceful measures in support of political detainees, as well as other measures taken to criticize the actions of the authorities or to express a position on the illegality of the annexation of Crimea. , in particular:

- In January, employees of the Ministry of Internal Affairs of the Russian Federation stopped white cars "for inspection" on the Kerch bridge on the way from the Crimea to the Russian Federation. Cars in which Crimean Tatars were, didn't pass. According to eyewitnesses, about 120 people were detained in this way, who were detained all night allegedly for checking documents, after which they were banned from leaving Crimea without any grounds. All other cars were passed by the Ministry of Internal Affairs without hindrance. Thus, the officers of the Ministry of Internal Affairs of the Russian Federation prevented the acts of news and relatives from taking part in the action in support of the participants of the "Crimean Muslim case", who were sentenced on January 12 in Rostov-on-Don67.

- In January 2021, there were mass detentions of protesters in support of Russian opposition politician O. Navalny. In addition, on the eve of the rally, police officers handed out warnings to activists and their potential participants about the ban on holding and attending rallies due to the introduction of a quarantine regime in Crimea. In April, an activist holding a single picket in support of Navalny was fined 10,000 rubles.

- In March, the court brought to justice Sevil Omerov for holding a single picket in support of her husband, a participant in the detention of politically motivated Riza Omerov. Warnings were issued for non-compliance with the rules of conduct in an emergency (quarantine). On a similar charge, a court fined activist Mustafa Seydaliyev, who was holding a picket in support of Crimean political prisoners, for a single picket68.

- In September in Simferopol, police, Rosguard and riot police detained activists and relatives of those arrested, along with Nariman Jelal, who had gathered at the FSB headquarters to find out the whereabouts of those arrested. The CPG received information about at least 53 detainees at the event. They were taken to the “police station, where they stayed for several hours, waiting for administrative reports to be drawn up. Locals were detained for participating in a peaceful spontaneous rally. Two relatives of the detainees were left in solitary confinement after being accused of disobeying the police and sentenced to 15 and 10 days in jail, respectively. At the end of October, the CPG recorded 43 court decisions imposing fines ranging from 1,000 to 30,000 rubles on participants in the event. In October, journalist Ayder Kadyrov, who videotaped the detention, was fined 5,000 rubles for violating quarantine requirements69.

- On October 11, 25 and 29, mass detentions of people who came to open court hearings of arrested Crimean Tatars took place in Crimea. There were at least 72 detentions in total, of which 24 were left in solitary confinement overnight. At least 63 detainees were charged with non-compliance with quarantine restrictions, violation of the order of organizing or holding a peaceful assembly and "organizing mass simultaneous stay and (or) movement of citizens in public places, which caused a violation of public order." Of these, 21 people were fined between 5,000 and 20,000 rubles, 7 were acquitted, and others are awaiting trial in the Crimean "courts." Among those fined were two journalists who were members of the Crimean Solidarity NGO, who were detained and carried out their professional duties. On October 25, police officers barred Rustem Kyamilev's lawyer from detaining an activist during mass arrests for disobeying police. Another lawyer, Edem Semedlyaev, was denied access to one of the detainees for refusing to stretch in the ward70.

67 https://crimeahrg.org/wp-content/uploads/2021/02/crimean-human-rights-group_jan_2021_en.pdf
68 https://crimeahrg.org/wp-content/uploads/2021/04/crimean-human-rights-group_mar_en.pdf
69 https://crimeahrg.org/wp-content/uploads/2021/10/crimean-human-rights-group_sep_en.pdf
70 https://crimeahrg.org/wp-content/uploads/2021/11/october_en.pdf

Subsequently, in November, Semedlyaev was sentenced to 12 days in jail and fined 4,000 rubles. On November 23, the day Semedlyaev's arrest expired, police detained 31 people who came to meet a lawyer after his release near the detention center. 17 people were sentenced to administrative arrest for 10 to 13 days. In addition, 6 people were fined in the amount of 10 to 15 thousand rubles71.

- There were also several mass detentions in November. On November 1, 19 people were detained in Crimea for attending an open hearing in the "Crimean Muslim case." On November 23, 32 people were detained who came to meet after the administrative arrest of lawyer Edem Semedlyaev. On November 26, two more people who came to the hearing in the "Crimean Muslim case" were detained. In total, at least 53 Crimean Tatars were detained in November as participants in peaceful assemblies, and at least 50 administrative proceedings were instituted against them.72

4. FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

According to Art. 18 of the International Covenant on Civil and Political Rights, everyone has the right to freedom of thought, conscience and religion. This right includes freedom to hold and receive religion or belief of his choice, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in worship, practice, worship and observance. No one shall be subjected to coercion which undermines his freedom to have or to adopt a religion or belief of his choice. This article also states that freedom of religion or belief is subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, as well as the fundamental rights and freedoms of others.

According to Art. 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms, everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom to practice his religion or belief in worship, teaching, practice and observance, and practice alone and in private, in public and in private.

The UN General Assembly called on Russia to respect freedom of thought, association and peaceful assembly, as well as freedom of association and freedom of thought, conscience, religion and belief without any discrimination and to ensure unhindered access without any unreasonable restrictions on places of worship and assembly. prayers and other religious practices. However, as recorded by the CPG and reflected in the draft resolution on the human rights situation in Crimea at the 76th session of the UN General Assembly, Russia continues to restrict freedom of conscience, religion and belief.

During the reporting period, the CPG recorded numerous cases of persecution of people who practiced religious organizations banned in Russia, mainly Jehovah's Witnesses.

The decision of the Supreme Court of the Russian Federation ÿ AKPI17-238 of April 20, 2017 banned the activities of religious organizations of Jehovah's Witnesses as extremist. The Russian authorities also extended this ban to the occupied territory of Crimea. Ukrainian law does not prohibit the activities of Jehovah's Witnesses. Despite the liquidation of the legal entities concerned, Jehovah's Witnesses are persecuted for organizing extremist activities. The basis for such accusations is, as a rule, information about the conduct of religious ceremonies in accordance with the views of Jehovah's Witnesses, not the continuation of the activities of banned organizations.

At the end of November 2021, 5 people were imprisoned in the Crimea as part of the persecution of Jehovah's Witnesses. Another 9 are restricted in their movement: 7 are under house arrest, 2 are under a restraining order 73.

In addition, the Orthodox Church of Ukraine is under constant pressure from the occupying authorities in Crimea

71 https://crimeahrg.org/uk/u-simferopoli-zatrimali-31-osobu-za-zustrich-advokata-edema-semedlya%d1%94va-z-itt/
72 https://crimeahrg.org/wp-content/uploads/2021/12/crimean-human-rights-group_nov_en.pdf
73 https://crimeahrg.org/wp-content/uploads/2021/12/crimean-human-rights-group_nov_ua.pdf

Annex 106

International Renaissance Foundation, Information on Illegal Archeological Excavations: List of Objects of Destruction of Monuments of Crimea (2021)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Information on illegal archeological excavations

list of objects of destruction of monuments of Crimea

Palace of Kalga-Sultan Akmejitsay and cultural layer of the ancient city of Akmejit

Palace of Kalga-Sultan Akmejitsay and cultural layer of the ancient city of Akmejit

Russian colonial policy, wherever it takes place — whether in the Ukrainian-occupied Crimea or in Russian Tatarstan — always uses three basic principles: oblivion, denial of the obvious, and marginalization.

In this sense, the example of the archeological monument "Palace of the Kalga Sultan Akmejitsaray and the cultural layer of the ancient city of Akmejit is illustrative.

The city was founded no later than 1502, as evidenced by the building inscription of the oldest building of Akmedjit, the Kebir Mosque. At the end of the XV century. Khan Mengli I Geray, the great institutionalist of the Crimean Khanate, founded the post of Kalga Sultan - commander of the army of the Crimean Khanate, the first heir to the khan's throne.

The residence of the Kalga Sultan was the city around the palace complex Akmejitsaray.

It should be understood that the historical part of Akmejit did not perish, but was simply renamed by the Russians first in Simferopol, and then separated within the Old Town. At the same time, the colonizers no doubt still believe that the history of Akmejit-Simferopol is a little over 200 years old and before them there was a "scorched desert". The modern historical part of Akmedjit-Simferopol is known, to put it mildly, as not the most prestigious area of the city. Lack of communications, normal road surface, street lighting, and mountains of garbage dominate the streets near the central square of Akmedzhit-Simferopol.

After the annexation of Crimea in 1783, Akmejit lost its main architectural and political dominant - the palace of the Kalga Sultan. Built in the early XVI century. Akmejitsaray fell into disrepair at the end of the XVIII century. when Russian troops were stationed there.

The archeological monument "Palace of Kalga-Sultan Akmejitsaray and the cultural layer of the ancient city of Akmejit" also includes the archeological layers of the mosque complex of 1502. Kebir-jami and archeological buildings of the Old Town of the late XV - early XX centuries.

It is difficult to come up with a more complete and vivid metaphor for the current fate and state of Crimea than the history of Akmejitsaray. Now the location of the Kalga Sultan's palace is called "Dog Beam" and is partly used as a landfill. In the former famous gardens of Akmejitsaray, the temple of the Russian Orthodox Church is being built illegally, even in terms of occupation "laws". And 500 meters from the ruins of the palace is the Kyiv District Court of Akmedzhit-Simferopol - the main court for the Crimean Tatar and other political prisoners of the Kremlin.

The impetus for the archaeological study of Akmejit and the Kalga Sultan's palace in 2017 was the construction of a church of the Russian Orthodox Church on the territory of the former brewery. In the course of construction works, the remains of the masonry of the palace walls and the cultural layer of the final stage of the palace's existence were discovered. The public,

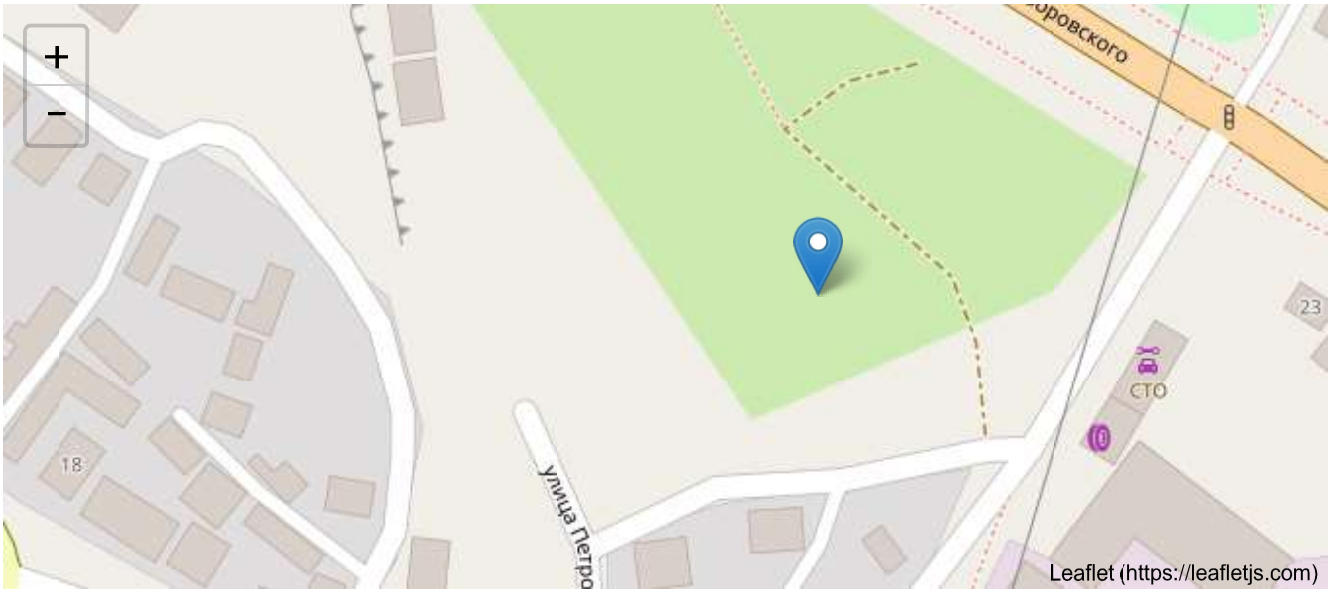
which has long insisted on archeological research, has called for an end to construction work, which has led to a temporary halt and limited excavation, confirming information about the location of Akmejitsaray.

Since 2019, illegal so-called "Protective" archaeological explorations throughout the Old Town on new buildings. But the main threat to the ruins of Akmejitsaray and urban development of the Khan's time are not excavations, as it seems at first glance.

The main problem is the direct disregard by the occupation authorities and the population of Simferopol (ARC, Ukraine) of the historical and cultural layer of the Crimean Khanate . Instead of stepping up efforts to protect and preserve archeological sites in the old part of Akmedjit-Simferopol, the occupying authorities have opened a new niche to earn money on "examinations" and illegal archeological excavations "under demolition", which began in the city in 2019.

Thus, today the occupiers are not going to change their policy of transforming the second capital of the Khanate either into a place of "Orthodox" holiness or a place of solid waste.

Map



Responsible persons

Seidaliyev Emil Isayevich - the so-called "Institute of Archeology of Crimea RAS"

Sources

1 Seidaliev EI EXPLORATIONS AT THE PLACE OF THE ASSUMED LOCATION OF THE KALGA-SULTAN'S PALACE IN SIMFEROPOL // History and Archeology of Crimea. Issue. VIII. Sevastopol: Kolorit, 2018. S. 110-113.

Additional files

No information available

ABOUT US

We are an independent platform that brings together scientists, conservationists, historians, archaeologists, culturologists, lawyers in international humanitarian and criminal law, international human rights law, and public figures.

The project is funded by the International Renaissance Foundation

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Annex 107

Crimean Tatar Resource Center, Analysis of Human Rights Violations in the Occupied Crimea in 2021 (presentation) (25 January 2022)

This excerpt has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51. A copy of the whole document has been deposited with the Registry.

Page 1

Crimean Tatar Resource Center

Analysis of human rights violations in the occupied Crimea in 2021

https://ctrcenter.org/ru tel. +38 067 343 7454 https://facebook.com/CTRC2015

Page 2

Right to life, liberty and physical integrity
Illegal actions of the occupational authorities
Searches

[graph]

Total number of searches (53) Searches in Crimean Tatar households (33)

In 2021, 53 searches were recorded in the occupied Crimea, 33 of which were held in the homes of Crimean Tatars. This figure is practically the same as the figure of the previous year. Then the CTRC recorded 50 searches. Persecution trend for political and religious reasons remains unchanged since the beginning of the occupation of the peninsula.

- In January, 3 searches were recorded: at the wife of political prisoner Ivan Yatskin and at suspects of "justifying terrorism in social media".
- In February, the security forces conducted 10 searches in the case of Jehovah's Witnesses, the case of Hizb ut-Tahrir and one in the home of activist Ludovicka Papadopoulou.
- In March, 9 searches were recorded, which were related to the case of Jehovah's Witnesses.

Page 3

- In April, 6 searches were carried out: 4 in the houses of the Crimean Tatars Abduselyam Selyametov, Seyran Taymazov, Eldar Fetlyaev, and Ruslan Ramazanov without serious reasons, in the house of a brother of Enver Seitosmanov, who is charged in the case of Hizb ut-Tahrir, as well as at a resident of Alushta for "calls for extremist activities."
- 4 searches were recorded in May: in the house of Ayub Rakhimov, in the dwelling of the Gafarov family, where Ayub Rakhimov was present. And also in the homes of Crimean Tatar activists: Zidan Adzhikelyamov and Muslim Zevriev.
- In July, 2 searches were recorded: in the house of the parents of Gaide Rizayeva, an activist and assistant to the People's Deputy of Ukraine and in the house of Abdulla Ibragimov in the city of Evpatoria, who was arrested for three days.

- In August, 5 searches were registered in the case of Hizb ut-Tahrir.
- In September, 7 searches were recorded: in the “case of sabotage”, as well as in the house of Crimean activist Stanislav Krasnov.
- In October, 3 searches were recorded: in the prison cells of defendants in the Krasnogvardeisk Hizb ut-Tahrir case, while they were attending the trial. Personal items of political prisoners were sized.
- In November, in the occupied Crimea, Russian security forces searched parents’ house of the former First Deputy Permanent Representative of the President in the Autonomous Republic of Crimea Izet Gdanov.
- In December, the Russian security forces carried out 3 searches: in Feodosia, in the house of a Crimean Tatar Kurtumer Chalgozov, in the city of Stary Krym - in the house of the Crimean Tatar Nariman Ametov, as well as in the house of 34-year-old Crimean Tatar Rustem Ibadlaev.

During searches, security forces often violate the rights of victims. In particular, during the penetration into the dwellings, cases of damages to property were recorded, or conducting a search in the absence of the owner, or planting prohibited literature.

In addition, during the search in May, Ayub Rakhimov was killed. Occupiers claim that he resisted.

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Right to life, liberty and physical integrity
Illegal actions of the occupational authorities
Detentions

[graph]

Total number of detentions (366) Detentions of Crimean Tatars (330)

In 2021, 366 detentions/holdings were recorded in the occupied Crimea, 330 of which - in relation to Crimean Tatars. Dynamics remain unchanged, in 2021 there were 364 detentions recorded.

A number of recorded detentions were made after the searches. Residents of Crimea were detained on suspicion of involvement in the Hizb ut-Tahrir organization banned in the Russian Federation, Jehovah's Witnesses, for evasion in the draft of the Russian Federation armed forces, for “justifying terrorism in social media”, “supporting terrorism”, for “public treason”, for “committing sabotage”. Detention on the administrative border also took place.

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Such a large number of violations in this category is also due to the fact that the occupiers massively detained activists who were on their way from Crimea to the city of Rostov-on-Don for the announcement of the verdict to defendants in the Belogorsk case of Hizb ut-Tahrir. Back then 126 detention were recorder, all in relation to Crimean Tatars.

On September 4, 58 activists, who had gathered near the building of the “Department of the FSB of Russia for Republic of Crimea and the Sevastopol” and demanded to provide information on whereabouts of the detained Crimean Tatars Nariman Dzhelyalov, Aziz and Asan Akhtemov were detained.

In October, Russian security forces detained at least 59 activists who had come to the “court” building, where hearing in Krasnogvardeisk Hizb ut-Tahrir case was supposed to take place. 30 activists, who were waiting for the announcement of the verdict and put on white capes in support of the defendants in the Hizb ut-Tahrir case from the so-called "third Bakhchisaray group" were also detained.

On November 23, dozens of activists in the occupied Crimea came to meet the lawyer Edem Semedlyaev, whose detention term at the temporary detention facility had expired. FSB officers have already detained 31 people.

It is worth noting the detention of Vladislav Esipenko, a native of Krivyi Rig, who was detained after the commemoration of the Taras Shevchenko birthday in Simferopol. Torture was used against him: it is known that Vladislav was tortured with electricity for two days.

Also indicative are the detentions of Crimean Tatars Aziz and Asan Akhtemov, who were tortured and threatened with death in order to obtain confessions.

Crimean Tatars Nariman Ametov and Kurtumer Chalrozov were also tortured during detentions. They were detained on suspicion of “committing sabotage”, but later released. As it became known, the invaders tortured Ametov with the electric current. Also they tied Chalrozov with tape to a chair and began threatening him with chriminal charges in order to recruit him.

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Right to life, liberty and physical integrity
Illegal actions of the occupational authorities
Interrogations, Interviews, “Conversations”

[graph]

Total number of interrogations (366) Interrogations of Crimean Tatars (330)

In 2021, 366 cases of interrogation, questioning and “conversations” were recorded in the occupied Crimea, 330 of which - in relation to Crimean Tatars. In 2021, 364 cases were recorded.

Crimeans detained after searches were subjected to interrogations and interviews - on suspicion of participation in such organizations as "Hizb ut-Tahrir" and "Jehovah's Witnesses", banned in the Russian Federation, according to suspicion of allegedly “justifying terrorism in social networks”, “facilitating terrorism”, “state treason”, “sabotage”. One interrogation was carried out by Russian

security forces on the administrative border with the occupied Crimea. In addition, during the reporting period, there were repeated cases of interrogations of relatives of political prisoners, and activists who held solo pickets.

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Right to life, liberty and physical integrity
Illegal actions of the occupational authorities
Arrests

[graph]

Total number of arrests (210) Arrests of Crimean Tatars (167)

In 2021, 210 cases of arrests were recorded in the occupied Crimea, 167 of which involved representatives of the indigenous people. Out of 210 cases: 28 - sentenced, 40 - administrative arrests, 25 - new arrests, 118 - extension of detentions.
Last year, 197 cases of arrests were recorded.

During this period, the occupation courts sentenced:

- defendants in the Belogorskiy Hizb ut-Tahrir case Enver Omerov to 18 years, Ayder Dzhepparov to 17 years, Riza Omerov to 13 years in prison.
- Pro-Ukrainian activist Oleg Prykhodko to 5 years in a maximum security prison with the first year in jail.
- political prisoner Medzhit Ablyamitov, suspected of allegedly “participating in the battalion named after N. Chelebidzhikhan", to 6 years in a maximum security prison with restriction of freedom for 1 year.
- Galina Dovgopolaya to 12 years of imprisonment in a medium security prison with restriction of freedom for 1 year.

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- Viktor Stashevsko, suspected of being a member of the religious organization Jehovah's Witnesses banned in Russia, to six and a half years in prison.
- Lenur Islyamov, the owner of the Crimean Tatar TV channel ATR, to 18 years in prison, serving the sentence in a maximum security prison, as well as 1 year of restriction of freedom (the sentence was changed).
- Ukrainian serviceman Yevhen Dobrinskiy to 3 years and 6 months in prison due to "illegal border crossing" and "drug smuggling".
- political prisoner Ivan Yatskin to 11 years in a maximum security prison with restriction of freedom for 1 year.
- a citizen of Ukraine for a period of 1 year, serving a sentence in a medium security correctional prison for creating an "extremist community".
- Chairman of the Mejlis of Crimean Tatar people Refat Chubarov to 6 years in a medium security prison, a fine of 200 thousand rubles and 200 hours of correction works.

- Former political prisoner Edem Bekirov to 7 years in a medium security prison and a fine of 150,000 rubles.
- Two men to 8 years in prison for participating in the “Crimean Tatar volunteer battalion named after Noman Chelebidzhikhan".
- Crimean resident Nina (Latifa) Malakhova, who was detained on February 15, on charges of "terrorism financing organization", to 4.5 years in a medium security prison.
- Chairman of the Sudak Regional Mejlis Ilver Ametov to 8 months of restriction of freedom under part 1 of Art. 222 of the Criminal Code of the Russian Federation (illegal acquisition, transfer, collection, storage, transportation or carrying of firearms, their main parts, and ammunition).
- defendants in the Hizb ut-Tahrir case Lenur Khalilov, Ruslan Mesutov, Ruslan Naraev, Eldar Kantemirov.

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- Ukrainian Konstantin Shiring to 12 years for alleged spying for the benefit of Kyiv (Article 276 of the Criminal Code of the Russian Federation).
- Igor Schmidt, who was accused of participating in a religious organization Jehovah's Witnesses banned in Russia, to 6 years in a medium security prison.
- defendants in the third Bakhchisaray case of Hizb ut-Tahrir Seytumer Seytumerov to 17 years of imprisonment in a maximum security prison, Osman Seytumerov - to 14 years, Rustem Seitmemetov - to 13 years, and Amet Suleymanov - to 12 years. Political prisoners have to spend the first three and a half years in jail.