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UCC Briefing Note to the Government of Canada

Human rights violations in Russian-occupied Crimea and Canada's Sanctions Policy

February 26, 2021

Executive Summary

- In February 2014, the Russian Federation invaded and occupied Ukraine's Autonomous Republic of Crimea. Canada, the United States, the European Union, and other countries have implemented sanctions against Russian officials and entities in response to Russia's ongoing aggression against Ukraine.
- Since the invasion, the Russian occupation regime has instituted a policy of abuse of internationally recognized human rights, political persecution and violence and systemic discrimination against Crimean Tatars and ethnic Ukrainians.
- There are currently at least 109 Ukrainian political prisoners from Crimea in Russian captivity, being held either in occupied Crimea or in Russia. Of these 109 political prisoners, 75 are Crimean Tatars.
- Three prominent cases involve the imprisonment of human rights defenders Emir-Usein Kuku, Server Mustafayev, and the harassment and persecution of human rights lawyer Emil Kurbedinov.
- The Magnitsky Act, adopted in 2017, gives the Government of Canada the authority to implement sanctions against foreign nationals "responsible for, or complicit in, extrajudicial killings, torture or other gross violations of internationally recognized human rights committed against individuals in any foreign state."
- However, the Government of Canada has not used the Magnitsky Act to sanction any officials responsible for gross human rights violations in Russian-occupied Crimea.
- **The UCC calls on the Government of Canada to use the Magnitsky Act to directly target human rights abusers by instituting travel bans and asset freezes against them, to hold Russian officials to account for human rights abuses against Ukrainian prisoners being held illegally in Russia and in Crimea and to sanction perpetrators of religious and cultural persecution against Crimean Tatars.**
- The UCC provides the Government of Canada with a list of 16 Russian occupation officials and Russian officials responsible for the violations of the human rights of Kuku, Mustafayev, and Kurbedinov.

Human rights abuses in Russian-occupied Crimea

In February 2014, the Armed Forces of the Russian Federation invaded and occupied Ukraine's Autonomous Republic of Crimea. Canada, the United States, the European Union, and other states implemented sanctions against the Russian Federation for its invasion and occupation. The United Nations General Assembly recognizes Crimea as being temporarily occupied by the Russian Federation.¹

In violation of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War,² the Russian Federation attempts to apply Russian law to the residents of the territories occupied by Russian forces, including occupied Crimea.

The US State Department's report on the human rights abuses in Russian-occupied Crimea outlines the egregious violations of human rights to which the people living under Russian occupation are subject. Significant human rights issues include:

- Disappearances;
- Torture, including punitive psychiatric incarceration;
- Mistreatment of persons in detention as punishment or to extort confessions;
- Harsh prison conditions and transfer of prisoners to Russia;
- Arbitrary arrest and detention;
- Political prisoners;
- Pervasive and arbitrary interference with privacy;
- Severe restrictions on free expression, the press, and the internet, including violence against journalists and website blocking;
- Gross and widespread suppression of freedom of assembly and religion;
- Severe restriction of freedom of association, including barring the Crimean Tatar Mejlis;
- Significant restrictions on freedom of movement;
- Restrictions on political participation;
- Systemic corruption;
- Violence and systemic discrimination against Crimean Tatars and ethnic Ukrainians.
- Occupation authorities took few steps to investigate or prosecute officials or individuals who committed human rights abuses, creating an atmosphere of impunity and lawlessness.³

¹ UN General Assembly Resolutions 71/205, 72/190, 73/263, and 74/168

² Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/380>

³ US State Department. *2019 Country Reports on Human Rights Practices: Ukraine – Crimea*. <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/ukraine/crimea/>

The Russian occupation apparatus that is chiefly responsible for carrying out this systematic policy of repression and violation of internationally recognized human rights is made up of the following:

- Federal Security Service regional Directorate for Crimea and Sevastopol;
- Federal Investigative Committee Main Investigative Directorate for Crimea and Sevastopol;
- Prosecutor General's regional office for Crimea and Sevastopol;
- Crimean Directorate of the Russian Interior Ministry (particularly the Center for Combatting Extremism);
- Regional Crimean courts and the Russian Southern Military Court in Rostov-on-Don.

Ukrainian Parliament Commissioner for Human Rights Lyudmyla Denisova stated in early February 2021 that there are currently 109 Ukrainian political prisoners from Crimea in Russian captivity, being held either in occupied Crimea or in Russia. Of these 109 political prisoners, 75 are Crimean Tatars.⁴

Three prominent cases involve the imprisonment of human rights defenders Emir-Usein Kuku, Server Mustafayev, and the harassment and persecution of human rights lawyer Emil Kurbedinov.

Emir-Usein Kuku, who joined the Crimean Contact Group for Human Rights in 2014, was arrested in Russian-occupied Crimea in 2016 and in November 2019, sentenced to 12 years in prison in a high-security penal colony on trumped-up terrorism charges. Five co-defendants, Muslim Aliev, Inver Bekirov, Vadim Siruk, Refat Alimov and Arsen Dzhapparov, were sentenced to between 8 and 19 years in prison.⁵ Emir-Usein Kuku is a recognized prisoner of conscience by Amnesty International.⁶

Server Mustafayev is a coordinator of the Crimean Solidarity Initiative, which was launched by families of Crimean Tatar political prisoners. In May 2018 he was arrested in Russian-occupied Crimea and in September 2020 sentenced to 14 years in prison, also on trumped-up terrorism charges, by the South District military court in Rostov-on-Don, Russia. Six co-defendants - Marlen Asanov, Memet Belyalov, Timur Ibragimov, Seyran Saliyev, Server Zekiryayev, and Edem Smailov – were sentenced to between 13

⁴ February 2, 2021. Radio Svoboda. *Denisova povidomyla, skilky zaraz ukrainskykh polityvazniv v Rossiii i Krymu*
<https://www.radiosvoboda.org/a/news-denisova-ukrajinski-polityvazni-v-rosiji-i-krymu/31082119.html>

⁵ Kharkiv Human Rights Protection Group. *"Crimea is our land. We did not give it to Russia, nor did we sell it"* Powerful final court address by Crimean Tatar human rights defender
<http://khpg.org/en/1593356319>

⁶ Amnesty International. <https://www.amnesty.org/en/latest/campaigns/2018/02/crimean-tatar-hrd-emir-usein-kuku/>

and 19 years in prison.⁷ Server Mustafayev is recognized as a prisoner of conscience by Amnesty International.⁸

The cases of Kuku and Mustafayev are illustrative in terms of the abuse of the antiterrorism and antiextremism legislation by the Russian Federation and the instrumentalization of this legislation against Crimean Tatars.

Emil Kurbedinov is a human rights lawyer involved in several cases defending Crimean Tatar and civil society activists and journalists. He is being harassed and pressured by the Russian occupation authorities for supposedly “propagandizing for extremist organizations.” He has been arrested several times and there have been attempts to disbar him. Human rights organizations believe that pressure by the occupation authorities is meant to silence him and serve as a warning to other lawyers who defend political prisoners and activists targeted by the occupation regime.⁹

Canada’s policy regarding occupied Crimea and Canadian sanctions

Canada does not recognize Russia’s annexation of Crimea and has implemented several rounds of sanctions on Russian officials and entities in response to Russia’s invasion.¹⁰

In March 2020, Canada’s Minister of Foreign Affairs stated:

For six years, the international community has witnessed grave human rights violations in Crimea committed by state agents of Russia. These have included arbitrary arrests and detentions, disappearances, torture and the suppression of freedom of opinion, expression and association. The Crimean Tatars have been persecuted, and the Mejlis, their self-governing body, remains banned. [...] Canada and the international community will continue to keep up the pressure to compel Russia to respect Ukraine’s sovereignty and international law.¹¹

⁷ September 17, 2020. Kharkiv Human Rights Protection Group. *Russia’s offensive against civic journalists and activists*. <http://khpg.org/en/1600272707>

⁸Amnesty International. <https://www.amnesty.org/en/documents/eur46/3458/2020/en/>

⁹ Kharkiv Human Rights Protection Group. *Dangerous offensive against lawyer defending Crimean Tatar political prisoners* <http://khpg.org/en/1603917934>

¹⁰ Canadian Sanctions Related to Russia
https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/russia-russie.aspx?lang=eng
Canadian Sanctions Related to Ukraine
https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/ukraine.aspx?lang=eng

¹¹ Statement by Minister of Foreign Affairs on sixth anniversary of illegal annexation of Crimea
<https://www.canada.ca/en/global-affairs/news/2020/03/statement-by-minister-of-foreign-affairs-on-sixth-anniversary-of-illegal-annexation-of-crimea.html>

The last sanctions imposed by the Government of Canada with respect to Russia's ongoing war against Ukraine were in January 2020, when Canada sanctioned six individuals involved in the organization of illegal elections in Russian-occupied Crimea.¹²

Prior to that in March 2019 the Government of Canada sanctioned 114 individuals and 15 entities for aggressive actions against Ukraine.¹³

The Magnitsky Act

The *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, which was granted Royal Assent on October 18, 2017, allows the Government of Canada, at the recommendation of the Minister of Foreign Affairs, to implement restrictive measures, including asset freezes and travel bans, against foreign nationals "responsible for, or complicit in, extrajudicial killings, torture or other gross violations of internationally recognized human rights committed against individuals in any foreign state."¹⁴

In Federal Budget 2018, \$22.2 million was allocated over five years, and \$4.3 million annually thereafter, to strengthen Canada's sanctions system, including funds for the development of sanctions policy and coordination with international partners.¹⁵

Since its adoption in 2017, the Government of Canada has used the provisions of the Magnitsky Act to implement restrictive measures against 70 foreign nationals:

1. 3 South Sudanese nationals responsible for human rights violations (November 2017)¹⁶
2. 19 Venezuelan officials responsible for human rights violations (November 2017)¹⁷

¹² Amending the Special Economic Measures (Ukraine) Regulations: SOR/2020-15
<https://gazette.gc.ca/rp-pr/p2/2020/2020-02-19/html/sor-dors15-eng.html>

¹³ Canada imposes new sanctions in response to Russia's aggressive actions
<https://www.canada.ca/en/global-affairs/news/2019/03/canada-imposes-new-sanctions-in-response-to-russias-aggressive-actions.html>

¹⁴ Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)
<https://laws.justice.gc.ca/eng/acts/J-2.3/FullText.html>

¹⁵ Federal Budget 2018. <https://www.budget.gc.ca/2018/docs/plan/chap-04-en.html>

¹⁶ Justice for Victims of Corrupt Foreign Officials - Case 1
https://www.canada.ca/en/global-affairs/news/2017/11/case_1.html

¹⁷ Justice for Victims of Corrupt Foreign Officials - Case 2
https://www.canada.ca/en/global-affairs/news/2017/11/case_2.html

3. 30 Russian individuals linked to acts of significant corruption surrounding the US\$230-million tax fraud uncovered by Sergei Magnitsky in 2008¹⁸
4. Major-General Maung Maung Soe, for his significant role played by this key military official in human rights violations against the Rohingya in Myanmar (February 2018)¹⁹
5. 17 Saudi nationals linked to the murder of Jamal Khashoggi (November 2018)²⁰

To date, the Government of Canada has not used the Magnitsky Act to target any officials of the Russian government or the Russian occupation authorities who are responsible for gross violations of the human rights of Ukrainian citizens.

Increasing sanctions on Russia and Russian officials will increase the pressure on Russia to release political prisoners and end its occupation of Crimea and eastern Ukraine. Increasing sanctions will also draw increased international attention to the plight of Ukrainian political prisoners illegally jailed by Russia and will underline to the Russian authorities that Russia's aggression against Ukraine is unacceptable to the international community.

The UCC calls on the Government of Canada to use the Magnitsky Act to directly target human rights abusers in Russia by instituting travel bans and asset freezes against them, to hold Russian officials to account for human rights abuses against Ukrainian prisoners being held illegally in Russia and in Crimea and to sanction perpetrators of religious and cultural persecution against Crimean Tatars.

Ukrainian NGO Media Initiative for Human Rights, the Ukrainian Helsinki Human Rights Union, and the Free Russia Foundation have identified 16 officials responsible for the violations of the human rights of Emir-Usein Kuku, Server Mustafayev and Emil Kurbedinov. These individuals have been either directly involved or have overseen the persecution of Kuku Mustafayev and Kurbedinov. These NGOs have presented their findings to the United States Congress.

The UCC is ready to facilitate meetings between the Government of Canada and NGOs working on these issues.

The UCC calls on the Government of Canada to use the Magnitsky Act to sanction the sixteen Russian and Russian occupation officials whose names have been provided to the Government.

¹⁸ Justice for Victims of Corrupt Foreign Officials - Case 3
https://www.canada.ca/en/global-affairs/news/2017/11/case_3.html

¹⁹ Canada imposes targeted sanctions in response to human rights violations in Myanmar
https://www.canada.ca/en/global-affairs/news/2018/02/canada_imposes_targetedsanctionsinresponsetohumanrightsviolation.html

²⁰ Canada imposes sanctions on individuals linked to murder of Jamal Khashoggi
<https://www.canada.ca/en/global-affairs/news/2018/11/canada-imposes-sanctions-on-individuals-linked-to-murder-of-jamal-khashoggi.html>