In late February 2014, following the Euromaidan revolution in Ukraine, armed forces of the Russian Federation supported by proxy paramilitary groups invaded the Crimean Peninsula – sovereign territory of Ukraine – in violation of the prohibition on the use of force enshrined in the Charter of the United Nations. The invading forces quickly established control and authority over the Crimean Peninsula, expelling Ukraine’s civilian and military authorities. On 16 March 2014, the occupying authorities held what is widely considered to be an illegal and non-binding referendum on the independence of Crimea and Sevastopol from Ukraine. On 18 March 2014, self-proclaimed representatives of Crimea and Sevastopol signed an agreement with the President of the Russian Federation for the integration of the Crimean Peninsula into the Russian Federation. Ukraine and the vast majority of states in the international community have refused to recognise the legality of the referendum and subsequent annexation. The territory of the Crimean Peninsula remains under Russian occupation.
Overview of findings

THIS REPORT DOCUMENTS:

→ 7 murders

→ 15 enforced disappearances

→ 90 cases of illegal detention

→ 36 cases of torture and/or other forms of inhuman and/or degrading treatment

→ Widespread appropriation of public and private property and destruction of cultural property, and

→ Forcible displacement of up to 60,000 civilians.

The primary targets of this conduct are Crimean Tatars and Ukrainians identified by the occupying authorities as opponents or critics of the occupation. The cumulative effect of these crimes and other severe deprivations of fundamental rights may be characterised as persecution perpetrated against Crimean Tatars and Ukrainians on ethnic, political and/or religious grounds.

Contextual Elements of ICC Statute Crimes

In order to prosecute conduct as an international crime listed under Article 5 of the ICC Statute, certain contextual (also known as chapeau) elements must be established. These contextual elements distinguish international crimes from domestic crimes and serious violations of human rights.

To qualify conduct as a war crime, it must be demonstrated that such conduct took place in the context of and was associated with an armed conflict or occupation. In this report, IPHR demonstrates that the invasion of Crimea by Russian armed forces and proxy paramilitary groups constitutes a violation of Article 2(4) of the UN Charter and an international armed conflict for the purposes of the Geneva Conventions. The invasion has led to the unlawful transfer of the entire Crimean Peninsula to the control and authority of the Russian Federation – meeting the definition of an ‘occupation’ in international law. The occupation is ongoing, notwithstanding the 16 March 2014 Crimea status referendum and the subsequent annexation of the Peninsula by the Russian Federation – both illegal under Ukrainian and international law. Therefore it follows that an underlying crime listed in Article 8 of the ICC Statute that took place in the context of and was associated with the invasion and occupation of Crimea, may be investigated and prosecuted as a war crime.

To qualify as a crime against humanity, conduct must be part of a widespread or systematic attack on a civilian population pursuant to a State or part of an organisational policy to commit such an attack. The cumulative effect of conduct documented in our report constitutes an ‘attack’ for the purposes of the ICC Statute. Although not all civilians have been targeted, the primary object of the attack is an identifiable targeted group whose members are actual or perceived critics and/or opponents of the annexation and associated violations. This group includes Crimean Tatars, Ukrainians as well as activists, journalists and other members of civil society perceived as a threat to the success of the annexation project. This attack has been widespread, with evidence of crimes and rights deprivations taking place across the entire 27 000 km² territory of the Crimean Peninsula, and throughout the entire period of the occupation. Those believed to be primarily responsible for the conduct described in this report are prominent members of the occupying authorities and proxy militias, pervading every aspect of public administration on the occupied peninsula. The conduct also demonstrates a regular pattern of perpetration and reveals the common objective of stifling any opposition to the annexation through systematic violations of civil, political, economic, social and cultural rights. The existence of a state policy to target civilians may be inferred from the involvement of executive, security, judicial and legislative branches of the occupying authorities in the
targeting, the impunity enjoyed by public agents and paramilitary groups, as well as the rhetoric of prominent members of the authorities.

“I support the proposal of the Russian Federation Investigation Committee head Alexander Bastrykin considered extremism a fact of denial of the referendum in the Crimea”

→ (De facto Head of Crimea, Sergey Aksyovov on Twitter)

“I promise that all who voted or acted for any decision against the Crimea, will not enter the territory of the republic. But if it happened and I find out about this, I will do everything possible in order to open the prison doors for them”

→ (De facto Head of Crimea, Sergey Aksyovov in an interview to Tass Press Service);

“All actions aimed at non-recognition of the Crimea as a part of Russia, will be prosecuted. In addition, people who incite ethnic hatred in the Republic of Crimea, will be denied entry to the Crimea”

→ (Prosecutor General of Crimea, Natalia Poklonskaya);

**Murder and enforced disappearances**

Our Report documents seven cases of wilful killing or murder, and 15 cases of enforced disappearances linked to the invasion and occupation of the Crimean Peninsula. All killings and disappearances were perpetrated against civilians and one member of Ukrainian armed forces who was no longer participating in active hostilities. In cases where there is evidence linking occupying authorities and proxies to the disappearances, the authorities have declined to provide any information on the fate of the victims. The lack of genuine investigations and improbable official explanations by authorities raise further suspicions about their complicity. In light of available evidence, there is a reasonable basis to believe that this conduct may amount to the following crimes under the ICC Statute:

→ War crime of wilful killing (Article 8(2)(a)(i)) and/or the crime against humanity of murder (Article 7(1)(a));

→ Crime against humanity of enforced disappearance of persons (Article 7(1)(i)) and/or the war crimes of wilful killing (Article 8(2)(a)(i)) and inhuman treatment (Article 8(2)(a)(ii)).

**Torture and other forms of inhuman treatment**

Our report documents 20 cases of torture and a further 16 cases of conduct amounting to inhuman treatment or other inhumane acts, which took place in the context of the occupation and/or subsequent attack on its opponents. This conduct has violated the principle of humanity and caused serious mental or physical suffering or injury to its victims. The precise legal qualification of the conduct varies on a case-by-case basis, depending on
the severity and duration of the acts and ensuing injuries. In the most severe cases, documented forms of torture include the use of electricity, firearm wounds, mutilation, severe beatings, and strangulation. Documented forms of inhuman treatment include beatings, deprivation of basic amenities in custody, deprivation of medical treatment for injuries, threats of death, rape and physical mutilation, and holding victims in conditions of enforced disappearance. In all documented cases, the acts were perpetrated by or on behalf of the occupying authorities – namely by representatives of the Federal Security Services (FSBO, police, and paramilitary organisations such as the Crimean Self-Defence Militia. In at least two cases, members of the Russian armed forces are implicated in acts of torture. These acts were perpetrated for the purpose of extracting confessions, obtaining incriminating evidence, deterrence and as a form of extra-judicial punishment. There is a reasonable basis to believe that this conduct may amount to the following crimes under the ICC Statute:

- War crime of torture (Article 8(2)(a)(ii)) and/or crime against humanity of torture (Article 7(1)(f));
- War crime of wilfully causing great suffering or serious injury to body and health (Article 8(2)(a)(iii));
- War crime of committing outrages upon personal dignity, in particular humiliating and degrading treatment (Article 8(2)(b)(xxi));
- War crime of inhuman treatment (Article 8(2)(a)(ii)) and/or crime against humanity of other inhumane acts (Article 7(1)(k)).

Illegal detention

We have documented 90 cases of illegal or arbitrary detention. Their illegality stems from the lack of legitimate grounds for detention as well as a systematic failure by detaining authorities to comply with minimum procedural safeguards. The cases may be divided into three broad categories – prolonged imprisonment of vocal critics in Russian penal colonies following unfair trials based on trumped-up charges, prolonged pre-trial detention and unfounded custodial sentences in Crimea and cases of short-term extra-judicial punitive detention by police, secret services and paramilitary groups. Selective arrests, biased prosecutions, intimidation tactics, systematic violations of domestic and international procedural rules and a recurrent lack of sufficient evidence demonstrate that the detentions are politically motivated, rather than a genuine exercise of law enforcement or protection of public order. There is a reasonable basis to believe that this conduct may amount to the following crimes under the ICC Statute:

- War crime of unlawful confinement (Article 8(2)(a)(vii));
- War crime of denying a fair trial (Article 8(2)(a)(vi)); and/or
- Crime against humanity of imprisonment or other severe deprivation of physical liberty (Article 7(1)(e)).

E.g: Hennadii Afanasev (Ukrainian photographer accused of aiding Oleg Sentsov) was arrested in Simferopol and charged with terrorist offences. He was transferred to detention in the Republic of Komi (Russia). At trial on 31 July 2015 Hennadii Afanasev withdrew his prior testimonies and stated that he was tortured and forced to testify against Sentsov and Kolchenko under duress. The torture inflicted on him by FSB officials consisted of severe beatings with boxing gloves, suffocation with gas mask (restriction of the air-supply), spraying the air-supply of the gas mask with aerosol that induced him to vomit into the mask, attaching electric-shock equipment to parts of the body including the genitals, threatening him with a welding machine when he was naked. Officials also told him that his mother was being held next door and that the same was happening to her. He was deprived of water and sleep for two days.
Oleksandr Kostenko (Ukrainian activists and participant in the Euromaidan demonstrations). Oleksandr Kostenko was abducted by FSB officials for allegedly throwing a rock at a Berkut officer during protests in Kiev, and was charged under article 115.2b of the Russian Criminal Code and article 222.1 (illegal possession of weapon), despite witnesses testifying that he was elsewhere on the day the crime allegedly took place. His wife was interrogated and threatened following his arrest. He was pressured into confessing his guilt and testifying against other Maidan participants. He was convicted after an unfair trial and is serving a lengthy prison sentence in Kirov region for events that took part on Ukrainian territory prior to the annexation of Crimea.

**Forced displacement**

Estimates for the number of civilians displaced as a result of the occupation range from 20 000 to 60 000 people, representing approximately 2.5 per cent of the total population of the peninsula. Of those who have left, an estimated 15 000 – 30 000 are believed to be Crimean Tatars. Thousands of others remain at risk of forced displacement. All displaced residents were lawfully present on the territory of the peninsula, and were involuntarily displaced by expulsion or coercion, with no justification under international law. Documented cases include court-ordered expulsions, flight from the threat of loss of liberty, violence and the threat of violence, harassment and the general climate of fear and persecution created by the occupying authorities. In addition, up to 2 200 Ukrainian detainees located in Crimean prisons at the time of the invasion have been given ‘automatic’ Russian citizenship and involuntarily transferred to other facilities in the Russian Federation. There is a reasonable basis to believe that this conduct may amount to the following crimes under the ICC Statute:

- War crime of unlawful deportation or transfer (Article 8(2)(a)(vii)); and/or crime against humanity of deportation or forcible transfer of population (Article 7(1)(d)).

**E.g.:** Ismet Yuksil (Crimean Tatar, Advisor to the chairman of the Mejlis and coordinator of QHA “Crimean News). For 20 years Ismet Yuksil was a registered resident of Crimea, where he lived with his family, worked, and was active in the Tatar community. In November 2015, FSB issued a ban to his entry into Crimea. The ban was confirmed by the Moscow City Court in a closed hearing held in absentia. The charges against him have not been made public.

**Crimes against public, private and cultural property**

It is estimated that 4 000 state assets and private properties belonging to Ukrainian nationals have been seized as part of a peninsula-wide land grab contrary to international law. A total of 14 appropriations of public property and 25 appropriations of private property are documented in our report. In all cases, property seizures took place in the framework of the so-called ‘nationalisation’ laws enacted by the occupying authorities, often implemented through violent take-overs by the police and paramilitary groups. The documented cases are not exhaustive, but represent an illustrative cross-section of crimes against property perpetrated by the occupying authorities and proxies in the context of the occupation. IPHR has also documented 11 cases of partial or total destruction of cultural, historic and religious monuments and property belonging to religious and cultural minorities – particularly Crimean Tatars. There is no evidence that the documented seizures and destructions were justified by military necessity or presented any concrete military advantage. No compensation has been awarded and there appears to be no opportunity for the dispossessed entities to claim compensation or challenge the appropriations or destructions. There is a reasonable basis to believe that this conduct may amount to the following crimes under the ICC Statute:
War crime of destroying or seizing the enemy’s property unless such destruction or seizure be imperatively demanded by the necessities of war (Article 8(2)(b)(xiii));

War crime of pillage (Article 8(2)(b)(xvi));

War crime of internationally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives (Article 8(2)(b)(ix)).

“Legal owners strong-armed off their premises; buildings, farms and other prime real estate seized on dubious pretences, or with no legal justification at all; non-payment of the compensation mandated by the Russian constitution; and targeting of assets belonging to or used by independent news media, the Crimean Tatar ethnic minority and the pro-Kiev branch of the Orthodox Church.”

Quote from Associated Press investigation

Persecution and collective punishment

From the onset of the occupation, the occupying authorities have identified Crimean Tatars as an ethnic group whose leadership and members are opposed to Russian rule. Similarly, the occupying authorities have subjectively identified as ‘Ukrainians’ those Crimean residents who are actual or perceived opponents of the occupation. Both groups have been targeted on ethnic, political and/or religious grounds, as all three characteristics are intrinsically linked to their members’ actual or perceived identities. Their leaderships and vocal activists have been subjected to violence, including murder, enforced disappearance, unlawful deprivation of liberty and other forms of inhuman treatment. Other actual or perceived group members have been subjected to regular harassment by agents and proxies of the occupying authorities. Laws and administrative acts passed by the authorities have restricted the groups’ fundamental freedoms of expression, assembly and religion, and have enabled large scale appropriation of property belonging to its members. Other acts and measures appear to be aimed at purging the groups’ distinct cultural identities. As many as 60,000 members of both groups have fled the peninsula as a result.

The cumulative effect of these criminal acts and violations of civil, political, social, economic and cultural rights, amounts to systemic discrimination and satisfies the definition and severity threshold of the crime against humanity of persecution (Article 7(1)(h) of the ICC Statute). This conduct may also be qualified as a form of collective punishment against groups and individuals in actual or perceived opposition to the Russian occupation.

The so-called automatic citizenship law imposed Russian citizenship on all registered residents of the Crimean Peninsula at the time of the occupation, providing a narrow and bureaucratically challenging window of opportunity for rejecting it. Those who availed themselves of the right to reject Russian citizenship have faced difficulties in obtaining residents permits and complying with subsequent requirement to re-register property, businesses and other entitlements. Consequently, all those who wish to remain in Crimea but do not want to become Russian citizens have faced unjustified discrimination and ‘bureaucratic coercion’.

“In addition to prohibiting any public activity and the use of bank accounts, the decision means that the estimated 2,500 members of the national and local Mejlis bodies can now incur criminal liability and could face up to eight years in prison for belonging to an organization recognized as ‘extremist’”: OHCHR, ‘Report on the human rights situation in Ukraine 16 February to 15 May 2016’
Other crimes

IPHR has also found evidence of other potential ICC Statute crimes taking place on the territory of the Crimean Peninsula from the onset of the occupation. A full assessment of the legal qualification and gravity of this conduct requires further investigation. However, evidence analysed by IPHR reveals the following ICC Statute crimes potentially perpetrated on the territory of occupied Crimea since February 2014:

→ Transfer of civilian population of occupying power onto occupied territory (Article 8(2)(b)(viii));

Russian authorities are directly or indirectly transferring its civilian population to the occupied territory of the Crimean Peninsula. Coupled with evidence of forced displacement of Ukrainian and Tatar ‘undesirables’ from the peninsula by the authorities, it would appear that the occupying authorities are deliberately altering the demographic or ethnic composition of the Crimean Peninsula contrary to international law.

→ Compelling a protected person to serve in the forces of a hostile power (Article 8(2)(a)(v)).

Following the take-over and occupation of the Crimean Peninsula, the occupying authorities have applied and enforced the laws of the Russian Federation there. Conscription of Crimean residents began in July 2015, with a reported 500 men falling within the scope of the law in that year. In 2016, the OHCHR reported that 2,000 Crimean men have been called up to serve in the armed forces of the Russian Federation, including members of the Crimean Tatar community, the majority of whom do not recognise the legitimacy of the occupation. The OSCE reported a surge in the displacement of youths from the Crimean Peninsula in March 2015, following of the issuance of conscription notices by the occupying authorities.

Groups and persons likely to be the focus of an ICC investigation

At the preliminary examination stage at the ICC, it is sufficient to identify the groups and persons that are likely to be the focus of an investigation. Those identified in this report as a potential focus for an ICC investigation include members of the de facto leadership of the occupying authorities, as well as the most prominent de facto law enforcement, security, prosecution and migration officials on the Crimean Peninsula. Paramilitary or ‘self-defence’ groups operating on the Crimean Peninsula as proxies of the occupying authorities have also been identified as potential targets for an investigation. Further investigation is also recommended to determine the responsibility, if any, of the leadership and identified prominent figures of the Russian Federal authorities with effective control over the occupying authorities in Crimea.

Issues relating to jurisdiction and the admissibility of potential bases before the ICC

On 8 September 2015, the Foreign Minister of Ukraine submitted a Declaration to the Registrar of the International Criminal Court (ICC), accepting “the jurisdiction of the Court for the purpose of identifying, prosecuting and judging the perpetrators and accomplices of acts committed in the territory of Ukraine since 20 February 2014 (sic).” On the basis of this Declaration, the ICC has jurisdiction to investigate and prosecute crimes set out in its Statute (ICC Statute) that have taken place on the territory of Ukraine, including the Crimean Peninsula, from 20 February 2014. In addition to satisfying jurisdictional requirements,1 a potential case before the ICC must fulfil the

---

1 See section III (Jurisdiction).
three admissibility criteria inscribed in the ICC Statute – complementarity, gravity and the interests of justice. In relation to complementarity, we submit that in all documented cases, there are either no or no genuine efforts to ensure justice and accountability on the part of the occupying authorities. The gravity of events taking place in Crimea over the past two and a half years justify action by the ICC, particularly when seen in the context of the bigger conflict in south eastern Ukraine. Finally, to IPHR’s knowledge, there is no reason to believe that an investigation into the conduct set forth in this report would not serve the interests of justice. Furthermore, IPHR firmly believes that such an investigation would gain the support of civil society and representatives of affected communities.

Conclusion

Evidence of criminal conduct and human rights violations documented in this report amounts to crimes under the ICC Statute, namely war crimes and crimes against humanity. Pursuant to the common aspirations of peace, security and justice, it is imperative to conduct full and thorough investigations into these events and bring those responsible for international crimes to an independent and impartial trial guaranteeing the full respect for fundamental fair trial rights.

2 ICC Statute, Article 17(1)(a-c); Article 17(1)(d) and Article 53(1)(c).