

RECOMMENDATIONS
FROM PARTICIPANTS OF THE EU UKRAINE CIVIL SOCIETY SEMINAR
ON HUMAN RIGHTS
21.03.2017, Brussels

Unit 1: Human rights violations as a result of Russia's armed aggression

To the European Union:

1. To launch an international format of negotiations on the de-occupation of Crimea, with the participation of the European Union, which should be based on the norms of international humanitarian law, international human rights standards and principles of international law.
2. To appoint a EU Special Representative on the issues of occupied Crimea and areas of the Donetsk and Luhansk oblasts, which are uncontrolled by the Ukrainian government. The mandate would facilitate constant monitoring the situation of human rights violation in the Ukrainian territories under effective overall control of the Russian Federation, and would publicly and periodically report to the Council of the European Union and the European Parliament on the state of affairs.
3. To hold periodic hearings in the European Parliament on the situation of human rights violations, as well as on war crimes and crimes against humanity committed in the occupied Crimea and areas of the Donetsk and Luhansk oblasts, which are under effective overall control of the Russian Federation.
4. To demand from the Russian Federation unhindered access to the occupied Crimea and areas of the Donetsk and Luhansk oblasts, which are under effective overall control of the Russian Federation, by international intergovernmental organizations, particularly the UN Human Rights Monitoring Mission, the OSCE Human Rights Assessment Mission on Crimea, the Council of Europe Commissioner for Human Rights, other conventional and institutional mechanisms of the Council of Europe, etc., as well as international humanitarian organizations, particularly the International Committee of the Red Cross.
5. To demand from the Russian Federation, which exercises effective control over areas of the Donetsk and Luhansk oblasts, to use its own influence to facilitate the implementation of paragraph of the Minsk Arrangements for the release and exchange of persons, whose freedom is restricted in connection with direct participation in hostilities¹, and civilian hostages, and until that time – to demand respect for their rights and freedoms, humane treatment, medical care, contacts with relatives, assistance in tracing missing persons, etc.

¹ Here and hereinafter armed conflict means international armed conflict. In 2014, the Russian Federation with the help of the army occupied the Crimea and unleashed a hybrid war in the Donbas, which is still ongoing. The Russian Federation exercises overall control over the illegal armed groups and effective control over their military operations, and therefore bears full responsibility for all the human rights violations that occur beyond the control of the Ukrainian government in areas of the Donetsk and Luhansk oblasts.

6. To maintain the position in international armed conflict that a prerequisite for holding elections in the uncontrolled areas of the Donetsk and Luhansk oblasts is to safeguard human rights and freedoms in compliance with the relevant standards of the OSCE and the return of effective control of Ukraine over the whole perimeter of the border.
7. To provide in the resolution of the international armed conflict strict observance of the principle of inevitability of criminal responsibility for grave and extremely grave crimes against life and health committed in armed conflict, including war crimes and crimes against humanity.
8. To ensure that the fight against impunity and accountability for war crimes, crimes against humanity and other international crimes be among the key priorities of the EU Agenda with Ukraine.
9. To ensure the ratification of the Rome Statute of the ICC as soon as possible, and provide all relevant technical assistance to Ukraine in order to do so and to encourage Ukraine to continue its cooperation with the International Criminal Court, in particular with the International Criminal Court Office of the Prosecutor on the preliminary examination.
10. To start a format parallel to the Minsk process, with the participation of the European Union to address humanitarian issues arising in armed conflict with the involvement in the negotiating process of international and Ukrainian non-governmental organizations.
11. To demand from the Russian Federation termination of the policy of changing the demographic composition of the population of the occupied Crimea by moving its own population from the territory of the Russian Federation to the Peninsula.
12. To demand from the Russian Federation termination of political persecutions and immediate release of the Ukrainian citizens, political prisoners in Russia and occupied Crimea, and until that time - to demand respect for their rights and freedoms, in particular freedom from torture, the right to an effective remedy, right to a fair trial, etc.
13. To start regular monitoring of trials against victims of political persecution in the Russian Federation and the occupied Crimea, as well as to continue the practice of participation of diplomats of the EU member states in trials that will be held on the territory of the Russian Federation.
14. To organize a mission with the assistance of independent physicians to monitor the conditions of detention and state of health of citizens of Ukraine who are held for political reasons in the Russian Federation and the occupied Crimea..
15. To create a fund for immediate aid to victims of political persecution in the occupied Crimea and members of their families.
16. To impose additional sectoral sanctions against the Russian Federation for the massive human rights violations in the occupied Crimea.

17. To create an operational working group to update the Magnitsky List with the persons involved in grave human rights violations and political persecution of citizens of Ukraine in the occupied Crimea and on the territory of the Russian Federation and to introduce targeted sanctions against them.
18. To demand from the Russian Federation to cease its policy of militarization of occupied Crimea, withdraw its troops from the Peninsula, and to stop the construction of a bridge across the Kerch Strait.
19. To impose targeted sanctions against legal entities of the Russian Federation that participate in the militarization of the occupied Crimea, providing organizational and logistical support to paramilitary formations in the Crimea, construction and logistics secured a bridge across the Kerch Strait, as well as against those legal entities of the Russian Federation, which maintain economic relations with the illegally captured Ukrainian enterprises on the territories under effective overall control of the Russian Federation.
20. To introduce a mechanism for permanent monitoring compliance with the sanctions regime of the European Union against Russia, targeted sanctions against individuals and legal entities of the Russian Federation, and to promptly update sanctions lists to overcome the gaps that arise.
21. To introduce a permanent ban for entry into the European Union of persons who occupy senior and elected positions in the occupied Crimea and areas of the Donetsk and Luhansk oblasts, which are under effective overall control of the Russian Federation.
22. To develop a mechanism for institutional cooperation between the European Parliament, the Euronest PA and other institutions and bodies of the European Union with the Mejlis of the Crimean Tatar People.

To the Ukrainian Authorities:

1. To bring the Criminal Code and Code on Criminal Procedure of Ukraine in accordance with the provisions of international humanitarian law and international criminal law.
2. To ratify urgently the Rome Statute of the International Criminal Court as per the implementation of the EU Ukraine Association agreement.
3. To ensure effective and independent investigation and prosecutions of all serious human rights violations and international crimes in the occupied Crimea and Anti-terrorist operation zone and to ensure a fair trial in order to bring all responsible persons to justice regardless of the party that committed them and provide access to justice to all victims.
4. To prevent the possibility of holding persons in custody in the non-formal and unforeseen by the regulations detention places and to conduct an effective investigation into the facts of illegal detention, reported by international human rights organizations.
5. To adopt a comprehensive state strategy towards the occupied Crimea and areas of

Donetsk and Luhansk oblasts, which are under the effective control of the Russian Federation, on the provision of educational, medical, legal and other services for people living in these areas, including employment in the territories controlled by the Ukrainian authorities, to facilitate future reintegration.

6. To establish a special interagency group collecting and recording evidence of human rights violations and international crimes committed on the territory of the occupied Crimea and in ATO zone, with the participation of the Ministry of Defense, the Prosecutor General, Security Service of Ukraine, Ministry of Internal Affairs, the Ministry of Justice, Ministry of Foreign Affairs and other governmental bodies, non-governmental organizations that work on documenting such violations.
7. To adopt the state program, which would include legal and other support to victims of human rights violations in the occupied Crimea, in particular, to Ukrainian citizens who are pursued for political reason, those detained, etc., as well as their families.
8. To simplify the procedure of entry of foreign citizens to the temporarily occupied territory of Ukraine and to leave it as well as provide a simplified procedure of entry to the territory of the occupied Crimea for foreign journalists, human rights defenders and lawyers.
9. To remove discriminatory legislative provisions that disproportionately restrict the rights of internally displaced persons and residents of the occupied Crimea and areas of Donetsk and Luhansk oblasts, which are under the effective control of the Russian Federation, in particular, resolutions of the Cabinet of Ministers of Ukraine #1035 dd 16.12.2015, #509 dd 01.10.2014, etc., and also to provide a mechanism for ensuring voting rights of internally displaced persons.

Unit 2: Judicial reform in Ukraine

To the Ukrainian Authorities:

1. To further ensure a transparent process to create a new Supreme Court with a competitive selection of new judges and to introduce appropriate institutional, procedural guarantees of independence and impartiality of their work.
2. To start a staffing update and implement qualifying evaluation of all judges to hold a competition for vacant judicial posts transparently with the European standards as regards the independence of judges.
3. To consider issues of justice in cases involving corruption of officials and of international crimes committed during armed conflict from the point of view of adequate selection of judges for these cases, special security measures, adequate guarantees of impartiality and increased demands for transparency; to address requests to the European Union with the aim of attracting foreign representatives to procedures for the selection of judges and to create appropriate legislative and institutional conditions.
4. To improve access to justice and efficiency of court proceedings through the introduction of e-justice.
5. To provide for the possibility of consideration of cases by a full jury and to expand the

- categories of cases required to be tried by the jury.
6. To expand access to justice, which would take into account the needs of vulnerable groups of the population and set such amounts of court fee that would not be an insurmountable obstacle to access to justice.
 7. To initiate the creation of a hybrid mechanism for involving foreign judges, prosecutors and investigators to pursue justice in issues related to war crimes and crimes against humanity and to provide the involvement of the international lay judges to cases of international crimes.
 8. To improve the anti-discrimination law, to add the prohibition of the discrimination based on SOGI (sexual orientation and gender identity).

To the European Union:

1. To support the recommendations of the civil society and involve civil society into assessment of the effectiveness of the judicial reform in the context of the implementation of the Association Agreement between Ukraine and the European Union.
2. When forming packages of support to the reform of justice in Ukraine, to shift the focus from examination of the legislation and the physical presence of experts of the countries of the European Union to the implementation role in those areas where there are opportunities or an urgent need for change in the absence of domestic institutional capacity. In particular, but not limited to:
 - 1) When implementing the specialized model of justice in cases of corruption committed by senior officials – to involve foreign specialists with experience in the formation of the judiciary;
 - 2) When implementing the model of transitional justice – to involve foreign representatives, including those from the countries of the European Union as lay judges, and prosecutors and investigators;
 - 3) To form good practice for compliance with professional standards – to invite experienced prosecutors of the EU countries to the composition of the Qualification and Disciplinary Commissions.
3. To continue working closely with the Ukrainian authorities and civil society on the implementation of other reforms in the justice sector to ensure the holistic nature of democratic change.