



Report

Russian Military Presence in Armenia, Moldova and Ukraine and its Impact on Human Rights Situation



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Introduction

Foreign Military Presence and Human Rights Situation

In world's practice, there is no unambiguous correlation between the foreign military presence and the human rights situation – this correlation is different in each case, depending on many factors, starting from the initial situation on the ground, open and hidden goals of the foreign power that deploys its militaries abroad, and up to the ability to create clear and balanced legal basis for the deployment of foreign troops and to properly monitor its implementation.

There were cases, when foreign military presence helped to stop and prevent the mass violations of the human rights – mainly under the UN peacekeeping umbrella. The history also provided examples when foreign military bases became stabilising factors and human security guarantors positively influencing human rights situations in the countries of their deployment. The mandatory condition for such positive cases was readiness of the foreign militaries to respect the international human rights law and the international humanitarian law. Another important factor was adherence of the foreign power deploying its militaries abroad to the international law and fundamental principles of democracy, as well as respect to sovereignty and territorial integrity of the countries of deployment.

Unfortunately, Armenia, Moldova, and Ukraine are not from the list of these successful examples. Although the situation with foreign military presence in all three countries differs significantly, they cannot all be called successful examples in the context of impact of the foreign military presence on human rights situation.

In all three cases, Moscow actually used its control over the former USSR Armed Forces' military bases to maintain their military

presence on the territories of the newly independent countries that emerged from the collapse of the Soviet Union. In all three cases, Moscow used its military presence not to strengthen security of the countries of deployment, but primarily for the sake of Russian geopolitical and economic interests, including strengthening of own influence on neighbouring states.

In all three cases, the proper legislation and monitoring/oversight mechanisms were not established to monitor and supervise the compliance of the Russian military presence with the legislations of the host countries, bilateral agreements as well as the international law, including the humanitarian one. In all three host countries, the human rights violations resulted from the foreign (Russian) military presence were not properly investigated, and actually this military presence led to significant deterioration in human rights situation.

In such circumstances, the role of civil society and human rights organizations performing the functions of monitoring the observance of human rights and protection of fundamental rights and freedoms, including through the use of existing international mechanisms and human rights institutions, is significantly increased. Hence, the Security and Defence Sector Reform & Developing process of the post-Soviet countries remains to be an important element to address the hybrid threats to human security caused by foreign military presence.

The experience of the impact of the foreign (Russian) military presence impact on human rights situation in Armenia, Moldova, and Ukraine provides important cases to be learned, to draw attention to the challenges to human rights posed by the lack of proper legislative and practical mechanisms of human rights monitoring and protection, and to improve the situation where it is possible as well as to avoid similar mistakes in the future.

Russian Military Presence in Armenia and its Impact on Human Rights Situation

General Overview of the Formation of Military-Political Relations between Russia and Armenia

As one of the republics of the Soviet Union, Armenia was strategically significant from the viewpoint of security, since it was bordering Turkey, a NATO member state. Due to this, a number of military bases were operating in the territory of the country, which protected not only the Soviet-Turkish and Soviet-Iran borders, but also were stationed in different settlements of the country, particularly in Yerevan, Gyumri, Vanadzor, Goris and Artashat.

The Armenian section of the Soviet-Turkish border was completely closed during Soviet times even for economic purposes – for railway transportation. The Gyumri-Kars railway was rarely used, only for diplomatic personnel. It should be noted that the closed-door regime of the Soviet-Turkish border was due to the obviously negative attitude of the local Armenian population towards Turkey, which was conditioned by genocide-related memories.

The collapse of the Soviet Union in 1992 took place in parallel with the Armenian-Azerbaijani military clashes on the Karabakh conflict that started in 1988, which continued with hostilities launched by Azerbaijan against Nagorno-Karabakh after independence and ceased by the ceasefire agreement signed on May 12, 1994. In the new military-political situation, as the Turkish government displayed and continues to show an apparently pro-Azerbaijani position, the Armenian-Turkish border remains closed. Though Turkey was one of the first to recognize Armenia's independence, so far there are no diplomatic relations between the two countries. In this situation, the border troops of the Russian Federation, the legal successors of the Soviet Union, continued their functions on the basis of the 1992 Agreement/Treaty between the Republic of Armenia and the Russian

Federation (hereinafter referred to as the 1992 Agreement/Treaty) on the status of the Russian Federation Border Troops and the Conditions of their Activity in the Territory of the Republic of Armenia.

At the same time, the 102nd Russian base in Gyumri is still operating, and the Treaty between the Republic of Armenia and Russian Federation regarding the Russian military base on Armenian¹ territory (hereinafter referred to as 1995 Agreement/Treaty) was signed only in September of 1995. It is worth noting that the intergovernmental agreement on the operation of the 102nd military base in Gyumri was signed after the ceasefire agreement on the Nagorno Karabakh conflict on May 12, 1994.

Apart from the bilateral Armenian-Russian military and political treaties, Armenia was also involved in the regional military-political structures formed by the Russian Federation after the collapse of the Soviet Union.

On December 8, 1991, the leaders of Belarus, Russia and Ukraine initiated the Commonwealth of Independent States (CIS)^{2, 3} and signed a Treaty on the Establishment of the Commonwealth of Independent States.

On December 21, 1991, the eleven post soviet sovereign states - Uzbekistan, Kazakhstan, Tajikistan, Kyrgyzstan, Turkmenistan, Azerbaijan, Moldova, Armenia, Belarus, Russia, and Ukraine signed the protocol to the Treaty in Alma Ata (now Almaty) and formed the CIS on equal basis. At the same time, they signed the Declaration on the CIS goals and principles. In 1993, Georgia joined the CIS, but on August 18, 2009 it left the CIS after Russia's aggression against Georgia on August 8, 2008.

The Collective Security Treaty Organization (CSTO) was established in the former USSR territory after its collapse in 1992. On May 15, 1992 Kazakhstan, Kyrgyzstan, Kyrgyzstan, Russia, Tajikistan and

¹ <http://uicarmenia.org/wp-content/uploads/2015/01/paym-razmabaza-1995.pdf>

² <https://www.mfa.am/hy/international-organisations/2>

³ <https://www.mfa.am/en/international-organisations/2>

Uzbekistan signed a Collective Security Treaty in Tashkent, Uzbekistan. Azerbaijan, Belarus and Georgia joined the CSTO in 1993. Georgia, Azerbaijan and Uzbekistan left the organization in 1999, and now Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia and Tajikistan are the six CSTO members.

Following the independence, the Republic of Armenia joined the international structures, the United Nations (2 March 1992) and the OSCE (30 January 1992), alongside its involvement in new interstate structures in the post-Soviet area.

It is clear that in the new regional structures, taking into account the Karabakh war and economic and military issues, Armenia was mostly in the new integration processes under the aegis of the Russian Federation. The first step in withdrawing from post-soviet status and joining other regional structures was the affiliation of Armenia to the Council of Europe on January 25, 2001 (at the same time with Azerbaijan). The Russian Federation and Georgia joined the Council of Europe in 1996. After the ceasefire was signed on May 12, 1994, domestic political developments had an important impact on Armenia's further integration processes.

After independence, the Republic of Armenia adopted its new Constitution on 5 July 1995. In addition, the parliamentary elections took place, and one year later, on September 22, 1996, in accordance with the new Constitution, the first presidential elections were held. Both the referendum and the parliamentary and presidential elections took place with many violations and persecution of political opponents that shadowed the idea of Armenia as a democratic island in the region.

It is noteworthy that the domestic political events in Armenia were followed by the signing of "strengthening" treaties/agreements on Armenian-Russian intergovernmental military-political relations. The agreement, signed in

September 1995, followed the constitutional referendum and the parliamentary elections.

The Agreement signed on September 27, 1996 between the Government of the Republic of Armenia and the Government of the Russian Federation on the procedure of the Russian military base deployment points on Armenian territory; the transfer and use of land plots for Russian military base deployment and operation; and the Russian military base (hereinafter referred to as the 1996 Agreement)⁴ followed the presidential elections of 22 September 1996. These elections were again accompanied by mass violations and opposition rallies when for the first time, armed forces were brought to Yerevan to ensure the protection of the National Assembly.

The Republic of Armenia Government decision on 5 of August 19, 2004, in accordance with agreements between the Republic of Armenia and the Russian Federation to approve the compensation of organizations providing railway services for interstate military transfers of Russian military units located in Armenia, including Border troops, followed the 2003 February presidential elections. These elections were accompanied by mass electoral frauds. The opposition filed a complaint to the Constitutional Court on electoral violations. The Court decided that although the election violations did not have a significant impact on the results, it was necessary to hold a referendum of confidence within a year. The opposition protests on April 12, 2004, were suppressed by police forces; more than 400 citizens were subjected to administrative detention.

In February 2008, after the second term of Robert Kocharyan, incumbent Prime Minister Serzh Sargsyan was nominated for the presidency and new presidential elections were again taking place with mass election violations, pressure on the opposition, and peaceful opposition protests. To prevent the protests the armed forces were also involved; a special military unit

⁴ <http://www.irtek.am/views/act.aspx?aid=15489>

⁵ <https://www.arlis.am/documentview.aspx?docID=12827>

was formed under a 0038 secret order for using in domestic political events, which was an unconstitutional step by the incumbent government. The police performed violence and pressure on March 1, 2008, killing 10 civilians. On the same evening, by the decree of R. Kocharyan, a 20-day state of emergency was established in Yerevan, which was actually applied throughout the country. From the very beginning, Serzh Sargsyan acquired the stigma of illegitimate power, and tried to overcome it by releasing more than 100 political prisoners through various legal tricks.

Serzh Sargsyan was nominated for the second time in February 2013, and this time the elections were obviously falsified, but the opposition candidate, Raffi Hovhannisyan, resigned from large-scale protests as officially introduced to prevent from worsening the situation.

On September 3, 2013, Serzh Sargsyan announced after meeting with the Russian President Vladimir Putin in Moscow that Armenia would refuse to sign the EU Association Agreement and join the Customs Union (then the Eurasian Economic Union) formed by the initiative of Russia with the participation of Belarus and Kazakhstan. Armenia had been involved in the process of the EU Association Agreement since 2009 and was expected to sign the Association Agreement in Brussels in 2013 together with six member states.

These events were followed by the signing of the Agreement between the Republic of Armenia and the Russian Federation on the Establishment of the Integrated Regional Air Defense System in the Caucasian Region on December 23, 2015.

Despite all the assurances that Armenia's accession to the Customs Union, then to the Eurasian Economic Union was due to the security reasons, Azerbaijan started military operations in Nagorno-Karabakh in April 2016. This activity was carried out with the knowledge of the Russian authorities, according to various independent assessments. Before that, Russia had been intensively selling weapons to both Armenia

and Azerbaijan, in order to keep the military balance. After the hostilities in April 2016, which were ceased by the mediation of Russia, on November 30, 2016, another agreement between the Republic of Armenia and the Russian Federation was signed – the agreement on Joint Forces of the Republic of Armenia Armed Forces and the Russian Federation Armed Forces.

After independence, despite the development of foreign political relations with different international entities, Armenia continues to depend on the Russian economy. It is first of all conditioned by the supply of energy and other goods, gas, oil, fuel, food and agricultural raw materials, machinery, equipment, vehicles, etc.

If we look at Armenia's trade with RF and EU, according to the National Statistical Service of Armenia, 6 the export from Armenia to the RF amounted to USD 90,802.6 thousand in 1995, and USD 666,501.7 thousand in 2018. It has increased almost 7 times.

In 1995 the import from the RF to Armenia amounted to USD 135,110.8 thousand, and in 2018 it was USD 1,394,217.7 thousand. It has increased for almost 10 times.

For comparison, the trade turnover indicators with the EU countries according to the National Statistical Service of Armenia⁷ is as follows: in 1995 export from Armenia to the EU countries was USD 99,543.6 thousand and USD 958,995.4 thousand in 2018. It has increased almost 9 times. In 1995 the import from EU was USD 171,643.2 thousand and USD 1,266,092 in 2018. It has increased almost 7 times.

Table 1: The trade between Armenia and RF, EU

Year	Export /thousand USD/		Import /thousand USD/	
	EU	RF	EU	RF
1995	99,543.6	90,802.6	171,643.2	135,110.8
2018	958,995.4	666,501.7	1,266,092	1,394,217.7

⁶ <https://www.armstat.am/am/?nid=159>

⁷ <https://www.armstat.am/am/?nid=159>

By comparing trade with the RF and EU, we see that exports to the EU from Armenia was more for about 9% than to Russia in 1995 and about 30% in 2018. Import from the EU was about 21% more than from Russia in 1995, but about 9% less in 2018.

We see that in the recent period Armenia has been exporting more to EU countries and importing more from Russia.

The second important circumstance of Armenia's dependence on Russia is labor migration. Most citizens from Armenia most often go to work in the Russian Federation and make transfers.

As of 2017, the number of RA citizens entering the Russian Federation for employment purposes is 232247 according to the data⁸ of the Migration Service of the RA Ministry of Territorial Administration and Development. According to the data⁹ of the Central Bank of Armenia, annual inflows from the Russian Federation to the Republic of Armenia by individuals was USD 1,049.984 thousand.

This economic dependence has also had a significant impact on Armenia's integration processes in the Eurasian region.

After its thirty-year history we state that the Republic of Armenia has been unable to overcome its dependence on the Russian Federation as a successor of the Soviet Union in the defense and military spheres. Despite membership to the Council of Europe and other international treaties, over the past years the Republic of Armenia remained under Russia's influence in the defense and economic spheres. The logic of all the treaties and processes signed between Armenia and Russia has been in that direction. The development of relations between the two countries has moved towards the logic of strengthening the influence of Russia on Armenia.

Despite the change of power in the 2018 revolution, there are still no visible signs of

reducing the influence of the Russian Federation, though prime-minister Nikol Pashinyan mentioned many times about the formation of Armenian-Russian equal partnership relations, and that any relationship with us will not be formed by or at the expense of relations with a third party. It should be noted that the initiation of a criminal case on the March 1, 2008 case involving the former president Robert Kocharyan, former CSTO Secretary General Yuri Khachaturov, former Defense Minister Mikayel Harutyunyan and Chief of Staff of the RA President Armen Gevorgyan as accused, caused serious problems in Armenian-Russian relations. This was expressed by the criminal prosecution of Y. Khachaturov, as a result of which Armenia recalled Khachaturov from the position of the CSTO Secretary General. All attempts to nominate a new candidate were not accepted by the CSTO and, in fact, the post of CSTO Secretary General is still vacant. The other problem is related to R. Kocharyan, who has backing from Putin. In addition, the former Defense Minister Mikayel Harutyunyan is in Moscow, and the Russian authorities have denied the motion of the RA Prosecutor General, justifying his Russian citizenship. It is interesting that another high-ranking official, Mihran Poghosyan, former head of the Compulsory Enforcement Service, has been granted political asylum by the Russian Federation upon his request.

It is also necessary to note the criminal case initiated on the basis of corruption crimes regarding the Armenian railway, which was handed to the Russian concession management.

It is difficult to predict future developments, but it is a fact that there have been shifts in Armenian-Russian relations. However, there is still no reference to the interstate military-political agreements.

⁸

http://www.smsmta.am/upload/20180603_EATM_ARM.pdf
http://www.smsmta.am/?menu_id=187

⁹ <https://www.cba.am/am/SitePages/statexternalsector.aspx>

Chronology of Formation of the Russian Military Base in the Republic of Armenia

The Russian 102nd Military Base, officially known as the 102nd Military Base of the Group of Russian Forces in Transcaucasia (Russian: 102-я военная база Группы российских войск в Закавказье)[3]¹⁰ is a Russian military base in Gyumri, Armenia, part of the Transcaucasian Group of Forces. It was formerly the base of the 127th Motor Rifle Division of the Soviet Seventh Guards Army.

The base traces its history to the 261st Rifle Division of the Soviet Union's Red Army. Later on, the 12th Army of the North Caucasus Front was stationed at the base, which remained there at least until August 1942, after which the Black Sea Subdivision of the Transcaucasian Front arrived in the military base. From January 1, 1943 to the end of World War II, the 45th Transcaucasian army was stationed at the base, which was assigned to oversee the Turkish-Soviet state border. After the end of the war, the 261th division was assigned to the station for a short time, later the 37th division, which was renamed the 127rd rifle division in 1965.

The Russian base was formed in independent Republic of Armenia on September 1, 1994, and the agreement on stationing the base for 25 years was signed on March 16, 1995.¹¹ It exercises military control in accordance with the Unified Air Defense System of the CIS. The base is subordinated to the Transcaucasian Russian military group of the North Caucasian military region of Russia.

On September 27, 1996, an intergovernmental agreement on the deployment of Russian bases in the territory of Armenia was signed, and in 1999 a number of amendments were envisaged to enlarge the Russian military presence in the Republic. Moreover, the term of the contract

is automatically renewed for 5 years if either of the parties has not informed the other party about the termination at least six months before the contract is to be renewed. Then, the Protocol on extension of the Russian base deployment in Armenia was signed on August 20, 2010 in Yerevan, and its term was extended until 2044 by which Russia was committed to ensuring Armenia's security. In 2011, the RA NA ratified the Protocol on extension of the Russian base deployment, thus giving the Russian Army an official privilege to remain in Armenia for several decades.¹²

Many years ago, the Russian Federal Security Service (FSB) started functioning in the checkpoints at Zvartnots International Airport in Armenia.

In March 2019 HCA Vanadzor made an inquiry to find out why the Russian border guards carry out border service in "Zvartnots" airport. The RA National Security Service informed HCA Vanadzor that the border troops of the Federal Security Service of the Russian Federation are operating in "Zvartnots" airport based on Articles 2 and 4 of the 1992 Treaty/Agreement. In particular, according to Article 2, the Republic of Armenia authorizes the border guard troops deployed at the time of signature of the Treaty to secure the state border with Turkey and Iran in the interests of its own security, the security of the Russian Federation and the CIS member states. In the territory of the Republic of Armenia (at the time of signing the Agreement the border troops of the Russian Federal Security Service were already stationed at Zvartnots airport in Yerevan). According to Article 4, paragraph 1 of the same Agreement, at the time of signature of the Agreement, the organizational-staff structure of the Russian border troops in the territory of the Republic of Armenia, their locations are maintained until the signing of special agreements between the Republic of Armenia and the

¹⁰ https://en.wikipedia.org/wiki/Russian_102nd_Military_Base

¹¹ <http://www.kavkaz-uzel.ru/articles/152315/>

¹² <http://armenian.irib.ir/interpretation10/item/3644-tafsire-1>
<http://civilnet.am/2015/03/26/gyumri-russian-military-base-new-territory/#.VfaBPtLtlHw>

Russian Federation. No agreements have been signed to date.

It should be noted that Zvartnots Airport is neither on the Armenian-Turkish, nor the Armenian-Iranian border. There are flights to Zvartnots International Airport not only from Turkey or Iran, but from many other countries. Therefore, implementation of border service at Zvartnots International Airport by the Russian border troops is not justified in any way.

It should be noted that recently on April 30, 2019, a member of the Ukraine parliament, Mustafa Naim, arrived at Zvartnots Airport to participate in the anti-corruption forum in Yerevan but his entry was banned. The Russian border guards denied him entry, mentioning only that he was an "unwanted person." Later he was informed that the ban was not by the RA, but by "a third country", and the "third country", according to him, was the Russian Federation, based on previous precedents with other Ukrainian citizens. Mustafa Naim has been granted access to Armenia only through the intervention of the Ukrainian Embassy in Armenia.

It turns out that, within the framework of exercising their powers under the interstate agreement, Russian border guards use the list of persons who are not allowed to enter the Russian Federation or who are undesirable persons for RF also against those who enter Armenia.

It should be noted that in response to the Organization's letter addressed to the National Security Service, they were informed that in 2018 the number of foreigners entered in the list of undesirable in the Republic of Armenia is 3346 and the number of persons removed from the list is 78789.

The documents signed between the Republic of Armenia and the Russian Federation on the Russian military base in the Republic of Armenia

Some of the legal documents mentioned in Annex 1. are available in the legal database, and some on the website¹³ of the Union of Informed Citizens NGO in the Russian and Armenian languages. HCA Vanadzor received some of the documents from the Ministry of Foreign Affairs of the Republic of Armenia.

According to the aforementioned sources, there are 19 documents (agreements, treaties, protocols) on the Russian border troops and the Russian base located in the territory of the Republic of Armenia signed between the Republic of Armenia and the Russian Federation. In accordance with the official information request from the Ministry of Foreign Affairs dated 23.08.2019, there are 10 interstate documents (agreements, treaties, protocols).

Interstate Documents on the Russian Military Presence in the Republic of Armenia have been analyzed in order to identify the existence and effectiveness of:

1. oversight mechanisms for the activities of Russian military units in the RA,
2. investigation mechanisms in case of breach of contractual obligations,
3. compensation mechanisms.

Article 8 of the Treaty between the Republic of Armenia and the Russian Federation on the Russian military base on the territory of the Republic of Armenia signed in 1995, defines that the governing body of the Russian base must cooperate with the RA Ministry of Defense and other agencies in their activities concerning operative and combat readiness of the base's military units as well as the medical, commercial, domestic and communal services provided for the members of the Russian military base and their families. Besides the Ministry of Defense of the Republic of Armenia, the Russian base interacts with various agencies

¹³ <http://uicarmenia.org/?cat=7>

as a foreign structure. It remains unclear what the basis is for such authorization and what the content of "interaction" entails. At the same time, Article 19 stipulates that financial support of the Russian military base in the territory of the Republic of Armenia is to be provided by the Russian Federation. The Republic of Armenia shall bear part of the expenses for the maintenance of the Russian military base. The types and amounts of costs for the maintenance of the Russian military base; its financing; provision of funds; and mutual settlement between the Parties shall be determined by a separate agreement, which, in accordance with an official letter of 06.08.2019 from the Ministry of Defense, is a closed document, is classified as a state and official secret, and is not subject to publication. That is to say, the RA public has no access to it and therefore it is not controllable how much money is spent from the RA state budget for the services of the Russian military base.

Likewise, in accordance with Article 20 of the Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory of the Republic of Armenia signed in 1995, Armenia is to ensure the supply of electricity, water and other utilities to the Russian military base in accordance with the norms of the Republic of Armenia Armed Forces supply and to the extent necessary to ensure the activity of the base. There is no justification for the fact that the supply mentioned by the Republic of Armenia is an obligation. In addition, the Russian Federation does not pay for the territory allocated by the Republic of Armenia for the Russian base; at least, the agreement does not stipulate any obligation or procedure for paying for the occupation of the territory.

Article 16 of the Treaty stipulates that the Russian military base carries out its activities providing measures to preserve the cultural, historical sites and natural resources of the Republic of Armenia. It is not stated in any document whether there is a clear implementation plan for these measures in terms of funding, sources, or timetable. It is

also important to understand, if such a plan exists, who approves it, who oversees its implementation, and how.

In accordance with Article 17 of the Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory of the Republic of Armenia, Armenia does not impede flights over its territory in favour of the Russian military base.

Obstacles may occur in the routes as well as in the zones and regions agreed upon by the Russian military base governing body with the Armenian Ministry of Defense.

This means that the Russian military base is not subject to any control by the Armenian authorities, which would prevent any possible illegal actions by the Russian base and its servicemen. A clear example of this is the rumor of a Russian aircraft flying from Armenia during the Georgian-Russian war in 2008 and bombing the Marneuli region of Georgia, which was denied by the RA Ministry of Defense.¹⁴ However, no clear assurance was provided about any monitoring mechanism.

The Agreement between the Republic of Armenia and the Russian Federation on Jurisdiction and Mutual Legal Assistance on cases of the Russian Military Base related to its being on the Territory of the Republic of Armenia, regulates the relations arising between competent authorities of Armenia and the Russian military base on civil, family, and labor disputes as well as criminal administrative offenses.

The Agreement on Jurisdiction and Mutual Legal Assistance on the cases of the Russian Military Base related to its being on the Territory of the Republic of Armenia regulates relations between the competent authorities of the Russian military base located in the territory of the Republic of Armenia and the Republic of Armenia on cases of civil, family, labor disputes, criminal administrative offenses.

¹⁴ <https://www.lenpravda.ru/today/270342.html>

Article 4 of the Agreement stipulates that Armenian legislation applies to the cases committed in the territory of Armenia by the persons included in the composition of the Russian military base in the territory of the Republic of Armenia and their families. However, this protocol does not apply to crimes and other offenses committed by members of the military base or their families if committed in the territory of a Russian military base, against other members of the military base or their families, in cases of military offenses. Russian legislation is applied and Russian authorities respond.

However, the Agreement does not in any way provide for a supervisory mechanism through which Armenian authorities can obtain information on possible criminal acts committed in the Russian military base, criminal proceedings initiated, or their course of action, even though numerous incidents have taken place in the Russian military base over the years.

Article 30 of the Treaty/Agreement between the Republic of Armenia and the Russian Federation on the status of the Russian Federation Border Troops and the Conditions of their Activity in the Territory of the Republic of Armenia (hereinafter also referred to as 1992 Treaty/Agreement) stipulates that the Treaty/Agreement shall enter into force upon signature and shall remain in force during the stay of the Russian border troops in the territory of the Republic of Armenia. It may be amended by agreement of the Parties. Basically, the term of this Treaty/Agreement is not set. In addition, it is not specified how the removal of border troops should be carried out.

Article 4 of this agreement stipulates that the replenishment of troops should be carried out by the commanders of the Russian border troops, but the principles of recruitment, selection criteria and mechanisms of control by the RA over their implementation are not specified. It is not known whether Armenia has any control over the recruitment of troops in Armenia by the Russian Federation.

In accordance with the Treaty/Agreement between the Republic of Armenia and the Russian Federation on the status of the Russian Federation Border Troops and the Conditions of their Activity in the Territory of the Republic of Armenia for the benefit of the state border protection of the Republic of Armenia with Turkey and Iran, the Russian border troops, interacting with the State Department of National Security of the Republic of Armenia and other law enforcement agencies, conduct investigative and operative activities; carry out preliminary investigations into criminal activities related to violation of the state border; and conduct urgent investigations in accordance with criminal and criminal procedure law.

The Treaty/Agreement does not stipulate the provision of border service by Russian border guards at Zvartnots Airport, but it has been implemented by the Russian border guard service.

In accordance with Article 10 of the same Treaty/Agreement, the Republic of Armenia is to provide life-sustaining services to the Russian border troops and units (housing, communal services, medical security, etc.) in Armenia. Funding and logistics are provided for jointly. Information about this is considered confidential and is not subject to disclosure, as established by the response to HCA Vanadzor's letter addressed to the Prime Minister and the Minister of Defense of the Republic of Armenia.

Article 8 of the Treaty/Agreement between the Republic of Armenia and the Russian Federation on the status of the Russian Federation Border Troops and the Conditions of their Activity in the Territory of the Republic of Armenia stipulates that the Russian border troops, by request and on a contractual basis, may also provide necessary assistance to the RA border guards for training of national personnel. However, it is unclear whether the assistance is paid or free. In response to a letter from the Organization to the Minister of Foreign Affairs of the Republic of Armenia, they stated that these issues are not within their purview.

Article 9 of the same treaty stipulates that the Republic of Armenia reserves the right for persons included in the staff of the Russian military base, members of their families and servicemen to voluntarily acquire RA citizenship after demobilization or retirement. However, there is no justification for granting such privileges.

Articles 14-17 of the Treaty define the right of property; the privileges of free access to property for Russian frontier troops and their families; the provision of living space, whereupon the residential buildings where they reside are also personal property; education; and social security.

Members of the Russian Border Troops and their families who cross the RA border upon entering or leaving the country of service are reserved the right to carry their belongings without any restrictions and duties, taxes or charges, which is incomprehensible.

Article 19 of the 1992 Treaty/Agreement defines the regulations of the jurisdictional issues regarding the location of the Russian border troops in the territory of the Russian Federation, according to which as a general rule, the legislation of the Republic of Armenia applies to offenses committed by persons of the Russian Border Troops and their families, and local courts, prosecutors' offices and other authorities respond to these offenses. But this general rule does not apply if the members of the Russian Border Troops and their families commit a crime or offense against the Russian Federation or on the territory of the Republic of Armenia against persons who are also members of the Russian border troops or members of their families, as well as if persons of the RF troops commit a crime or offense during the performance of their official duties. In both cases, the Russian courts and other authorities operate under Russian law.

Thus, the Armenian party, under the abovementioned treaty, recognizes the jurisdiction of the Russian judicial and law enforcement authorities to deal with any offense or crime committed by persons belonging to the border troops of the Russian

Federation within the territory of the Republic of Armenia or their family members if committed against the Russian Federation. However, the Russian judicial and other bodies have no obligation to provide information to the Armenian side on these cases.

It appears that the Armenian side accepts that Russian courts and other authorities possess jurisdiction over crimes or offenses committed by Russian border troop members and members of their families against the RF as well as over Russian border troop members and their families stationed in the Republic of Armenia. However, the Russian side has no obligation to provide information to the Armenian side regarding criminal cases. That is to say, the Armenian side does not have monitoring / oversight mechanisms or tools on the process, nor on results and final decisions of the cases.

As to the paragraph stipulated in the above Article that the authorities of the Republic of Armenia and the Russian Federation may mutually apply for the transfer or acceptance of jurisdiction in particular cases, which shall be viewed kindly, then the question arises as to matters not considered kindly- what are the liability measures, or do they exist?

Article 29 of the 1992 Treaty stipulates that a Joint/mixed Committee shall be set up to deal with the interpretation and application of the Treaty, with each of the Parties appointing three representatives. We wanted to find out, in an official letter, how many times the Mixed Committee was established under Article 29. In response to the Organization's letter, the Ministry of the Foreign Affairs stated that in accordance with the requirements of Article 29, the Armenian National Part of the Mixed Commission for the Interpretation and Implementation of the Treaty was established by Resolution N574 adopted on September 16, 1999, which was amended by the Resolutions of the Government of the Republic of Armenia N702 dated November 2, 2000 and 903-A dated July 22, 2010. At the same time, they informed that no

meeting of the Mixed Committee provided for by the treaty has been held so far.

Thus, analyzing the interstate agreements on the Russian military presence in the territory of the Republic of Armenia, we conclude that

- a. Treaties/Agreements do not provide for monitoring and control mechanisms for the RA over the activities of the Russian units located in the territory of the RA;
- b. the resources allocated by the RA state budget for the maintenance of the Russian military base are classified as confidential information and the public is not aware of even their general amount, although the overall amount of the RA defense budget is known,
- c. taking into account that the territories allocated for the deployment of Russian military units in the territory of the Republic of Armenia are provided free of charge, it should be assumed that the amounts of the alleged lease payments for the use of the territories have also not been estimated;
- d. it is impossible to estimate, and it has not been estimated, how much the RA state budget pays for the activities of Russian military units in the territory of the Republic of Armenia, nor the extent of the financial burden for the Republic of Armenia of the maintenance and use of Russian units in its territory.

e. The absence of monitoring and oversight mechanisms for the activities of the Russian base and border troops by the Republic of Armenia leads to the violation of the rights of RA citizens, and proportionate compensation mechanisms for those violations are absent.

Thus, the interstate Treaties/Agreements regulating the military presence of the Russian Federation in the territory of the Republic of Armenia do not comply with the standards of the Republic of Armenia as a sovereign, rule of law state or with the Constitution of the Republic of Armenia.

Based on the abovementioned points, we propose to the authorities of the Republic of Armenia to review interstate treaties/agreements and to bring them into line with the Constitution of the Republic of Armenia.

Description of incidents with the servicemen of the Russian military bases in the Republic of Armenia in chronological order (media publications)

The presence of the Russian base in Armenia is unequivocally perceived by Armenian society, and is also linked to tragic incidents with the servicemen of the Russian military bases.

#	Year	Description of the Incident	Nature of the Incident	Number of Victims
1.	1992	On July 11, 1992, a group of Russian servicemen stationed in Gyumri attempted to transport stolen or illegally obtained military equipment of special communications. At the customs office the Russian soldiers were asked to present cargo documents, after which they tried to hide with their car. A shootout happened between them and law enforcement officers, as a result of which 3 Armenian police officers, 3 RA civilians and 5 Russian servicemen were killed. [2] ¹⁵	Murder as a result of shooting	11 victims
2.	1999	On April 14, 1999, two Russian soldiers stationed at the Russian army base in	A case of intentional	2 killed 7 injured

¹⁵ <http://www.aniarc.am/2015/01/13/gyumri-armenia-russia-1992-102-base/>

	<p>Gyumri, Aleksey Kamnyev and Denis Popov, left the base without permission. They initially wanted to telephone Popov's relatives in Russia. However, they changed their mind and entered a café. They ordered some cakes and two bottles of vodka. Upon leaving they attempted to gain access to a house located on Jivani Street in order to use the toilet. (They chose not to use a nearby public toilet). According to court files, building residents chastised the soldiers, who were drunk. The soldiers, in response, cursed the residents for ten minutes but then left the scene.</p> <p>Upon returning to the army base, the two soldiers seized arms and ammunition from their fellow soldiers and returned to Gyumri. For almost one hour, the two soldiers fired their weapons in the direction of passersby. Luckily, vendors at the local produce market were able to disarm the soldiers.</p> <p>Thus, the entire series of events started on the morning of April 14, when the soldiers illegally left the base and then entered Armenian state territory. They then reentered the base, seized weapons, and again entered Armenian state territory to inflict physical harm and attempt murder. The two were apprehended by Armenian law enforcement and an Armenian court issued they be given pre-trial detention.</p> <p>The two Russian soldiers were held at the Gyumri #2 Investigative Solitary Confinement Unit.</p> <p>It is interesting to note that the Russian Military Prosecutor, as the investigating body, also issued that the two be detained while awaiting trial.</p> <p>As a result, two different legal bodies issued pre-trial detention in the same case.¹⁶</p> <p>On December 27, 1999, the court of first instance of Shirak region found Alexander Kamnyev and Denis Popov guilty and sentenced them to 15 and 14 years in prison. Alexander Kamnyev stayed in prison in Armenia for more than 11 years - until June 10, 2011. According to the Strasbourg Convention Convention on the Transfer of Sentenced Persons, ratified by the National Assembly of the Republic of Armenia in</p>	<p>abandonment of a military unit and shooting at civilians</p>	
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¹⁶ <http://hetq.am/arm/news/58711/permyakovi-u-1999-i-mijadepi-qrgortseri-tarberutyunnery.html/>

		<p>2001, the Orenburg Court of Russia has decided to grant the motion to transfer Kamnyev to Russia. The Ministry of Justice of the Republic of Armenia gave its consent, and A. Kamnyev was transferred to the RF for further punishment. On June 6, 2011 A. Kamnyev was transferred to RF law enforcement agencies.</p> <p>Denis Popov was transferred to Russia on April 18, 2001, after serving only two years in prison, where he was later released. However, according to the information provided by the Penitentiary Department, the transfer documents were destroyed on the basis of expiry of the date.¹⁷</p>		
3.	2003	<p>On June 11, 2003 a group of young men attempted to enter the military base. According to witnesses, guards on duty resisted them which resulted in a conflict and shooting.</p> <p>Two local residents, Artur Pogosyan and Armen Aroyan, were killed. Two others were wounded and taken to the hospital.</p> <p>After the incident, Major General, Alexander Titov, the base commander, was fired. The report of the Transcaucasian Military District Council included a statement that said he had allowed serious breaches of discipline and had “neglected” his duties.¹⁸</p>	Shooting near the military unit and murder	2 killed 2 injured
4.	2010	<p>On October 23, 2010 two servicemen were murdered at the Russian military base in Gyumri, Armenia.</p> <p>In the morning of October 23, the bodies of contract officers, Armen Zakaryan (27) and Artur Yenokyan (39) were found in a room with multiple stab wounds. Both were citizens of the Russian Federation.¹⁹</p> <p>A criminal case has been opened in the Military Investigation Division of the Investigative Committee under the RF Prosecutor's Office under point 2 (a) of Article 105 of the Russian Federation Criminal Code (intentional murder of two or more persons). Taking into consideration that the crime was committed in the territory of Armenia and the person who committed the crime - Mikhail Bashchikov, is an Armenian citizen, the Russian</p>	Murder	2 killed

¹⁷ <http://hetq.am/arm/news/58221/16-tari-araj-gyumrii-spanutyunneri-masin-patmum-en-rus-zintsaravoxneri-pastabannery.html>, <http://www.kommersant.ru/doc/231937>; <https://hetq.am/en/article/58711>

¹⁸ <https://jam-news.net/gyumri-the-russian-base-that-kills/>

¹⁹ <https://a1plus.am/en/article/304709>

	<p>Prosecutor's Office sent the criminal case to the Prosecutor's Office of Armenia. On November 4, 2010, the case was assigned to the NSS Investigation Department of Armenia.</p> <p>The motive behind the murder - according to investigative authorities, it is as follows: In November 2010, Yerevan resident Mikhail Bashchkov borrowed 6,000,000 AMD from Unibank CJSC and mortgaged his apartment. Apart from that in order to pay the bank interest, in the spring of 2010 he borrowed 20,000 Russian rubles from officer A. Zakharyan. He paid some of the debt and still had to pay 150,000 drams. Being unable to pay the remaining amount of the debt, Bashchkov argued with Zakharyan and planned his murder. Having known in advance that A. Zakharyan had to be in service at the radio station of the N military unit of NSS Border Guard Unit located at Nubarashen administrative district on October 23, 2010, at 00: 30-00: 49, by overcoming the engineering and technical barriers of the military facility, he entered the building of the radio center, entered the bedroom and attacked A. Zakaryan, stabbed him and killed him. He then shot and killed Artur Yenokyan, a lieutenant who had come to the room for help.</p> <p>Unclear circumstances in the case: According to journalistic investigation,²⁰ the police first reported that there had been an incident at the Russian border guard unit in Gyumri, but for some reason the incident was reported not to the Gyumri police but to Erebuni. However, the preliminary investigation into the case was initiated by the Military Investigative Unit of the Investigation Committee under the Russian Prosecutor's Office, as the victim Armenians were Russian citizens. Usually, if there is a need for proceedings of a case taken place in a Russian military unit located in the territory of Armenia, these cases are heard in the Russian military court in the Shengavit district, which also handles proceedings in the Russian military units in the South Caucasus. However, in this case they did not</p>		
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²⁰ <http://lakmoes.am/iravung/421-102>

		<p>do so and sent the case here to investigate as the defendant was a citizen of the Republic of Armenia. The Prosecutor General's Office was instructed to do so by the NSS Investigation Department, which is in the administrative district of Kentron and does not fit within the jurisdiction of the Erebuni district. The victims were residents of the RF and the defendant was registered in Ajapnyak administrative district of Yerevan. It is unclear why the criminal case was opened by the Erebuni police, passed under the jurisdiction of the Russian Federation and then to the RA law enforcement authorities, and the trial was again assigned to the Erebuni district court.</p> <p>Verdict: Mikhail Bashchikov was found guilty of committing the crime in Article 104 (2) (1), (8) and (11) by the RA Erebuni and Nubarashen District Court on May 31, 2012, and he was sentenced to life imprisonment.²¹</p>		
5.	2010	<p>On October 22, 2010, a resident of the village of Gharishat in the Shirak region applied to HCA Vanadzor for protection of her rights. On the night of July 15, 2004, 57 heads of cattle were stolen and taken to Turkey. A criminal case has been initiated at the RA NSS Investigation Department by the command of the Russian frontier troops of the no. 2012 military unit. However, in 2005, the investigator of the RA NSS Investigation Department made a decision to suspend the criminal case, which was approved by the head of the RA NSS Investigation Department. The Preliminary Investigation Authority, having decided to suspend the criminal proceedings, stated that it had undertaken all possible investigative actions, but had not identified the persons who should have been involved as defendants in this criminal case. The RA NSS Investigation Department did not conduct a proper investigation into the criminal case, alleging that "it was impossible to verify the identity of the perpetrators", which led to the suspension of the criminal case.</p> <p>That is to say, some people crossed the border illegally, the RA National Security</p>	Illegal border crossing, theft	

²¹ http://datalex.am/dl_case_view_page.php?caseType=1&courtID=0&caseID=15481123719101274

		Service or the Prosecutor's Office substantiates it with an investigation, while the Russian side is conducting an investigation and does not identify the perpetrators.		
6.	2013	<p>On April 7, 2013 in the pasture of Vahramaberd, which according to the agreement signed between Armenia and Russia in 1997 has been used as a tank shooting range by Russian troops, two children of the village – 10-year-old Artur Mkrtchyan and 15-year-old Mushegh Gevorgyan – were killed because of explosive armament negligently left on the spot. Artur Mkrtchyan went to the pasture with his friend Mushegh to bring a meal to his father, a shepherd. The father who was at work left for a moment to get water, and during that time, there was an explosion; the children were killed. Prior to the incident, the children had already removed the aluminum from 20 mines. One of the mines was tight, the children hit it over the stone so to put it apart and it exploded.²²</p> <p>Aghvan Martirosyan, the chief of the village of Vahramaberd, said during a conversation with www.aravot.am that both families were literally poor; they didn't have money even for the children's funeral.</p> <p>According to Aghvan Martirosyan, in Soviet years, the administrative district between Hovuni and Marmashen was allotted to the Russian side for military exercises. According to the village chief, life is not safe in Vahramaberd at all, since that area is adjacent to the village. "We are used to that already; they have been carrying out military exercises since 1957, but in order that residents of Vahramaberd were able to enter and leave, they would always put soldiers at the entrance. However, on Sunday, it is a day of rest, there is no control on that day, and there you are, this tragedy."²³</p> <p>According to GALA's information on April 19, 2013, the families of the two minors who died in the blast said they had been persuaded by the Russians, even frightened, that "if the case went on, the case would turn" against them. The Russians succeeded</p>	Ammunition blast in the territory of the Russian base, which kills two children	2 killed

²² http://www.asparez.am/news-hy/vahramaberd_i_mahacac_erevaner-hy/, <http://www.azatutyun.am/content/article/24950464.html>

		<p>in convincing the families of Arthur Mkrtchyan and Mushegh Gevorgyan to sign a document saying that they had no complaints.</p> <p>Thus, the case is over, and the village continues to live in the same way, taking livestock to the same areas where it is dangerous and where no measures have been taken to prevent such incidents.²⁴</p>		
7.	2015	<p>According to aravot.am, on July 20, 2015, a Russian soldier, Yuri Vitalyevich, born in 1994, was taken to Gyumri Medical Center with injuries on his right arm.</p> <p>The soldier was provided with appropriate medical care, including stitches in his hand, after which the soldier left the hospital unnoticed. He turned out to be drunk and broke the glass of a fruit shop on Khrimyan Hayrik Street in Gyumri, which was filmed by a camera installed in the store.</p> <p>People near the store, seeing his injured hands, called an ambulance and he was taken to hospital. The police were informed about this from the hospital. The news was confirmed by the police.²⁵</p>	Drunk soldier breaks shop window	1 injured
8.	2015	<p>The 2015 Gyumri massacre was a mass murder of seven members of the Armenian Avetisyan family in Gyumri, Armenia, on January 12, 2015. The suspect, Valery Permyakov, a Russian serviceman from the Russian 102nd Military Base, was apprehended by the Armenia-based Russian Border Guards near the border with Turkey and brought into custody at the Gyumri base for further investigation under Russian jurisdiction. Spontaneous demonstrations in Gyumri and Yerevan ensued, demanding that Permyakov be tried and serve his sentence in Armenia. Perceived inadequate government response further triggered public outrage in Armenia in early 2015 following the incident.[2]</p> <p>A Russian military court sentenced Permyakov to 10 years in prison for desertion and theft of firearms and ammunition in a short trial held in August 2015.</p> <p>The Ministry of Justice announced that</p>	Murder	6 killed

²⁴ <https://www.aravot-en.am/2013/04/08/153475/?s=>

²⁵ <http://www.yerkirmedia.am/wap.php?act=news&lan=hy&id=27920>

	<p>Permyakov had been taken to the Russian Federation. There is no information on exactly where he was transferred. Even when he was here at the 102nd Military Base, it was not even accessible to the Human Rights Defender of the Republic of Armenia.</p> <p>His Armenian-jurisdiction murder trial began shortly afterwards.</p> <p>After he pleaded guilty, the court sentenced him to life imprisonment in August 2016. Armenia's Court of Appeals upheld the guilty verdict in December. Permyakov waived his right to make a final statement or explain his motives during the proceedings.</p> <p>Since his arrest, Permyakov has been held at the Gyumri headquarters of a Russian military contingent.</p> <p>Initially, officials in Moscow said Permyakov could only be tried by a Russian court because Russia's constitution prohibits the extradition of its nationals to foreign states.²⁶</p> <p>The military shoes belonging to Permyakov have been found in Avetisyan's house. He also left a military uniform, his gun, changed clothes and shoes. He dressed in clothes from the house and left. He did not touch the gold jewelry in the house.²⁷</p> <p>According to “Moskovskiy Komsomolets” his fellow soldiers said Permyakov had made another attempt to escape earlier because he "did not want" to serve. Before conscription he was in the focus of law enforcement bodies as his brother had been jailed for the murder.²⁸</p> <p>One of the media outlets (timberhead.livejournal.com), referring to Permyakov's escape route from the scene, concluded that Permyakov had moved towards the railway station.</p> <p>There were various opinions as to where Permyakov was found and arrested. According to one of them, he was detained not while crossing the Russian-Turkish border, but in the territory of Armenia, where the Russian military, armed with machine guns, was conducting operative investigations. That is to say, without the</p>		
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²⁶ https://en.wikipedia.org/wiki/2015_Gyumri_massacre ; <https://www.bbc.com/news/world-europe-37168865> ; <https://www.rferl.org/a/armenia-gyumri-massacre-russia-life-sentence/28496314.html>

²⁷ <http://news.am/arm/news/247399.html> , <http://www.lragir.am/index/arm/o/country/view/109608>

²⁸ <http://itar-tass.com/proisshestviya/1693180>

		<p>legal basis and authorization, they themselves violated the rules of the Russian base, according to which they had no right to leave the base without permission. That is, they had violated as much as the murder suspect who had left the base area. The Russian side has clearly shown that it is up to them to resolve the issue.²⁹</p> <p>According to another one of the opinions expressed, the police knew the whereabouts of the suspect. Various comments have been made in this regard, including that a political decision was made that he should be arrested and detained by Russian law enforcement in order to further exclude the possibility of handing him over to the RA jurisdiction. This is considered a very valid opinion because if the police chief himself claims to have known their whereabouts, why did the police not hurry to arrest him minutes ago.³⁰</p> <p>Valeri Permyakov's fellow soldiers saw no aggression and unbalanced behavior in him. However, according to some reports, he has had mental health problems and even attempted suicide.</p> <p>During his testimony, Permyakov said that he had left the military base, wanted to walk a bit and return to the military unit, went to that address to drink water, knocked on the door, and as it did not open, he tried to enter through the window. He claimed that he did not know the dead and had never had any contact with them; moreover, that there was no conflict and he did not know who was at home, that he just wanted to quench his thirst.³¹</p> <p>Entering, he saw a woman lying awake and shouting (in Armenian, shouting something), reaching her hand to her cell phone, and at that moment he shot at her, then moved forward. In one room there were two people, he shot at them, in the other room there were 4 people who were shot too. They were making noise. Permyakov explained that the weapon was clogged that is why he stabbed the child. According to Permyakov, he went to drink tap water after</p>		
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²⁹ <http://www.aravot.am/2015/01/13/531757/>

³⁰ <http://galatv.am/hy/news/ermyakovi-gorcum-naxaqnnakan-gaghtniqner-chpetq-e-linen/>

³¹ <http://news.am/arm/news/247475.html>

		<p>killing six people and injuring an infant. He did not say why he had left his gun and clothes. He just said that he had changed, took AMD 5000 and 2 mobile phones (according to some data, 3).³² Permyakov did not answer the key questions.</p> <p>Permyakov said he left the house and "just went (in an unknown direction), with no intention of hiding."</p> <p>As for the details of the arrest, the press service of the Russian Federal Security Service in Armenia reported that when this unknown person approached the border guards, the captain instructed: "Stop," but the offender continued to move. The border guard then ordered: "Stop, I'll shoot," but that didn't stop the person either. The squad commander then fired a warning shot from the AK-74 rifle, forcing the offender to lie on the ground, face down. When giving testimony, Permyakov said he regretted what he had done.³³</p> <p>According to another version, stated by LifeNews, Permyakov said that he did not plan a murder, but had only planned to flee because he did not want to serve in the army. And he killed the family members because he feared they might betray him.</p> <p>Permyakov underwent an ambulatory forensic examination and was found sane. Artur Sakunts, the head of Helsinki Citizens' Assembly-Vanadzor, had previously stated that the Russian side had long been thinking about how to formulate the motive for the Avetisyan's assassination, and having been unable to find any other alternative, they were trying to lay the ground for Permyakov to be recognized as insane at some stage, thus hiding the real reason.³⁴</p> <p>According to the opinion of forensic experts, the rifle submitted for examination is an AKS-74 of 5.45mm caliber produced in 1981, it is in order and foreseen for 5.45mm (5.45x39) caliber bullets and shotgun shooting modes. The bullets presented are factory-made 5.45 mm (5.45 x 39) caliber</p>		
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³² <http://armenpress.am/arm/news/815044/permyakovy-bacahaytel-e-te-inchu-e-lqel-razmabazan-ev-inchu.html>

³³ <http://z1news.am/post/14539> , <http://www.aravot.am/2015/01/13/531766/>

³⁴ <http://www.tert.am/am/news/2015/03/02/permyakov/1605248>

	<p>bullets suitable for shooting and are considered ammunition.</p> <p>The experts have noted that the capsules submitted are parts of 5.45 mm (5.45 x 39) caliber bullets manufactured by the factory, which are shot from said AKS-74 rifle. The experts also said the bullets were shot from the same AKS-74 rifle.³⁵</p> <p>The conclusion further deepened the successors' doubts as to whether the defendant Permyakov acted alone or whether the crime was committed by several people. The conclusion about the presence of one rifle was questioned, because if one weapon was found, that does not mean there were no other weapons. If so many guns were fired, there should have been noise, which contradicts the important circumstances of the case.³⁶</p> <p>According to the forensic examination, Permyakov's sweat and the sweat found on the clothes and shoes found in Myasnikyan 188 were of the same group. Also, the saliva on the cigarettes belongs to a person of the same blood group as Permyakov's.</p> <p>However, according to lawyer Harutyun Baghdasaryan, it is unrealistic in the human psychology that the perpetrator could smoke at least three cigarettes after doing so.³⁷</p> <p>Only 15 days after the assassination, some of the victims' relatives were involved in the case as the victim's successors, and only 18 days later it was reported that successors Yegor Adamyan, Lusine Avetisyan and Rita Petrosyan had been provided with public defenders (Yerem Sargsyan and Tamara Baghdasaryan). But according to relatives, they had no idea about the case. They did not even know that they had to apply for recognition as the victim's successors. Advocates and human rights activists expressed their wish to serve as the victims' representatives free of charge.³⁸</p> <p>There were also suspicions that the bullets</p>		
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³⁵ <http://www.pastinfo.am/hy/node/64970>

³⁶ <http://www.azatutyun.am/content/article/26905514.html>

³⁷ <http://www.lragir.am/index/arm/o/interview/view/112116>

³⁸ <http://galatv.am/hy/news/yumrii-spandic-19-or-anc-spanvacneri-harazatnery-der-amboghjovin-nergravvac-chen-gorcum-nranq-chen-twanachum-irenc-pastabannerin/>

		<p>fired at the scene were from a silencer gun, because only then would the shots not be heard in the neighboring house. Such weapons are available only to counter-intelligence or special forces. Permyakov could not carry such a weapon because he did not have the right to have it during military duty. In this case, the conclusion that the crime was committed by a person or persons with special training becomes inevitable.³⁹</p> <p>The representatives of the victims' successors have submitted applications to the body conducting the trial, one of which relates to the opportunity to participate in the forensic examinations and to ask experts questions. The head of the investigation team has granted this request.⁴⁰</p> <p>In the second application the human rights defenders requested to change the charges against Permyakov, believing that Permyakov committed other crimes in addition to the crime committed under Article 104 of the Criminal Code of the Republic of Armenia. In particular, it was also proposed to bring charges under Article 235 of the Criminal Code of the Republic of Armenia (unlawful acquisition, sale, possession, transportation, or carrying of weapons, ammunition, explosives or explosive devices), as well as for illegal crossing of the state border.</p> <p>The representatives of the victims' successors petitioned the Armenian Investigation Team to launch a criminal case against Russian border guards who, in essence, kidnapped Permyakov during an attempt to cross the border and did not hand him to the Armenian side, as well as to file a criminal case against the Russian base leadership because they had no grounds to detain a person suspected of a crime. By handing over Permyakov to the Russian base by the Russian border guards, basically all significant traces of the crime that could have remained on Permyakov were destroyed.</p>		
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³⁹ <http://galatv.am/hy/news/vetisyanneri-spanutyuny-katarvel-e-xlacucich-zenqov-isk-te-o-wm-koghmic-ermyakovn-arnvazn-teghyak-e-ayd-masin-yarkac/>

⁴⁰ <http://www.aravot.am/2015/02/25/546023/>

		<p>The trial on the case of Valery Permyakov was held at the 102nd Russian military base in Gyumri. Permyakov has refused to testify in court, saying he fully confessed his guilt. According to pre-trial testimony published in court, Permyakov said he had entered the Avetisyan's house to borrow money. During the arrest, Permyakov said that he had entered the Avetisyan's house to drink water. In the pre-trial testimony, the Russian soldier wrote that he had taken his rifle to intimidate people, take money, and reach Russia through Turkey. So he searched for money and valuables in all the rooms of the Avetisyans' house, but took 5000 drams from one of the bags. According to the testimony, the murder of 7 members of the Avetisyans' family lasted 15 minutes. According to Artur Sakunts, it is clear that the testimony is directed by the Russian investigators. According to the human rights defender, the most important question is why Permyakov wanted to go to Russia through Turkey. What problems he had with his service, what was happening at the Russian base that made him take such a step. And, according to the human rights defender, it means that there are some circumstances in the Russian base that made him take such a step. This means that any soldier can freely enter and get out of the Russian military base at any time with a weapon, and the Russian military base is dangerous for the lives of the residents of Armenia, first of all Gyumri.⁴¹</p> <p>A group of staff members at 102nd base were punished, Andrey Ruzinski was dismissed from his post, and a new commander was appointed.⁴²</p> <p>According to former military serviceman of the 102nd Gyumri military base Viktor Mamonov, it was even easier to flee the military base over the fence. Although many realized that there was no place to escape, there were nevertheless escapees who were caught in Turkey or in Yerevan.⁴³</p> <p>Former soldier Rodion Komov told an</p>		
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⁴¹ <http://armtimes.com/hy/read/68471>

⁴² <http://www.ilur.am/news/view/43142.html>

⁴³ <http://168.am/2015/01/26/448564.html>

	<p>Armenian media outlet that any military unit is a closed area, and information flow is very rare. According to him, if he shot at the soldiers at the military units, no one would know.⁴⁴</p> <p>There are numerous violations of the Permyakov case by both the Republic of Armenia and the Russian Federation. By the Convention under the right to life, the state has a responsibility to safeguard everyone's life, and in this particular case the Russian party became aware that Permyakov had voluntarily left the Russian military unit with a gun with bullets, and informed the Armenian side hours later. That is, they did not take any steps to prevent that. In addition, no one was held liable as a result, even when it was recorded that the violation took place on the Russian side.</p> <p>To what extent the actions of the Russian forces comply with the Armenian-Russian agreements.</p> <p>Searches with weapons:</p> <p>As it is known, on January 12 in Gyumri the Russian military took part in the search for Permyakov. Article 13 of the Contract "On the daily activities and organization of garrison service outside the Russian military base in the Republic of Armenia" stipulates that the Russian military may participate in the search for Russian military personnel who have left the military unit on their own. However, Article 2 of the Agreement on the Use of Weapons by the Russian Military Personnel in the Republic of Armenia clearly lists the cases when weapons may be provided, carried and used outside the military base area. However, the listed cases do not include operative-search activities.</p> <p>Under RA jurisdiction:</p> <p>Article 4 of the Agreement on Jurisdiction and Mutual Legal Assistance related to the Russian Military Base on the Territory of the Republic of Armenia signed between the Russian Federation and the Republic of Armenia states that the RA authorities are in charge. It also states that RA law is applicable to crimes and other offenses that</p>		
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⁴⁴ <http://armlur.am/295845/>

		<p>take place in the territory of Armenia by persons from the Russian military base and their family members. That is to say the case of the Russian serviceman accused of killing 7 people in Armenia (outside the military base) should be forwarded to the RA law enforcement agencies.</p> <p>There was no attempt to cross the border: Article 3 of the “Agreement on the Status and Conditions of the Activity of the Russian Border Troops in the Territory of the Republic of Armenia” states that "The Russian Border Troops are not engaged in activities that do not protect the border with Turkey and Iran."</p> <p>Although the Russian side has stated that Valeri Permyakov was caught while he was trying to cross the border illegally, the fact raises serious doubts. According to RA legislation, illegal crossing of the state border is a crime (Article 329 of the Criminal Code of the Republic of Armenia), and unfinished crime (attempted crime) is also considered a crime (Chapter 6 of the Criminal Code of the Republic of Armenia). That is to say, Permyakov should also have been charged with the attempt to cross the state border illegally. However, almost a month after the incident, no such a case was initiated by either Armenian or Russian law enforcement agencies, which indicates that Permyakov did not attempt to cross the border. And if there was no attempt to cross the border, it can be stated that the Russian border guards were engaged in activities not related to the protection of the Armenian-Turkish border.</p> <p>They had to hand him to RA law enforcement agencies</p> <p>Article 5 of the same Agreement on the Russian Border Guards in the Republic of Armenia stipulates that Russian border guards must carry out operative law enforcement activities in accordance with RA criminal procedure legislation. This assumes that the persons arrested by the Russian border guards and the materials and evidence obtained should be transferred to RA authorities. However, the Russian border guards accompanied Permyakov to the</p>		
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		<p>102nd Russian military base and handed him over to the commander.</p> <p>The movement only upon consent Article 25, Part 1 of the same agreement on Russian border guards in the Republic of Armenia states that "The movement, training and maneuvers of the Russian border troops shall be carried out on the basis of plans agreed with the state bodies of the Republic of Armenia". According to the letter sent on the night of January 12-13, the Russian border guards did not agree with the Armenian authorities to move from Bayandur village to Gyumri (when they were transferred Permyakov).</p>		
9.	2015	<p>A Russian soldier serving at Russia’s military base in Armenia was arrested on suspicion of killing a fellow serviceman, Ivan Novikov. Ivan Novikov, a 19-year-old conscript, was found dead with several stab wounds in the northwestern Armenian city of Gyumri. Novikov’s body lay more than one kilometer from the nearest Russian military facility. Armenian law-enforcement officials and Russian military investigators cordoned off the area to inspect and conduct forensic tests there.</p> <p>Later in the day, Russian media identified the suspect as Ivan Boskhomdzhiev. The Interfax news agency quoted a Russian military spokesman as saying that he had already confessed to the murder. No gunshot wounds were found on the soldier. The murder was carried out with a sharp-edged tool.</p> <p>According to other Russian media reports, Boskhomdzhiev, who is a contract soldier, attributed the recently drafted conscript’s killing to “personal antipathy.” The two men are said to have repeatedly and bitterly argued.</p> <p>The criminal investigation will be conducted by the Russian side. Accordingly, Boskhomdzhiev will be tried by a Russian military court.</p> <p>Two days after the incident, Russian law enforcers sent a letter to Armenian law enforcers, referring to the interstate agreement between Armenia and Russia and</p>	Murder	1 killed

		requesting the file of the criminal case pending in the Shirak Regional Investigation Department of the RA Investigation Committee. ⁴⁵		
10.	2015	On January 17, 2015 an incident took place in Gyumri on Rizhkov Street with two Russian servicemen. According to GALA's sources, they first had a quarrel on Rizhkov Street, then they started to argue with citizens trying to separate them. According to preliminary information, they were taken back to the military unit. ⁴⁶	Quarrel	
11.	2015	On 20.07.2015 a traffic accident occurred in Gyumri involving a Russian soldier. A contract soldier of the Russian military base in Gyumri, 27-year-old Aleksandr Galentyev, was driving his vehicle having drunk alcohol. His car collided with three others on a street, and he was taken to Gyumri Medical Center with minor injuries. Center Deputy Director Armen Khachatryan told Armenian News-NEWS.am that the Russian military serviceman was discharged after receiving outpatient treatment at the hospital. The prosecutor of the Shirak region said that if the soldier was guilty the case would be sent to the Russian side. ⁴⁷	Violations of traffic rules, violations of the rules of technical operation of cars	1 injured
12.	2015	Artur Afyan who served with Russian border guards in Gyumri was found hanged after going missing. He went missing on February 21. He had been given permission to leave his unit and visit relatives in a village near Gyumri but never showed up. Armenian authorities have instituted a criminal case under the criminal code article dealing with murder. A forensic examination has been ordered to establish the cause and time of death. ⁴⁸ According to the mayor of Marmashen, Arthur had a debt of USD 3,500 and, according to preliminary information, he disappeared because of it. The villagers also said he had a kitchen knife with him. ⁴⁹ It is noteworthy that on February 21, 2015 when the Investigative Committee reported that necessary investigative, operative-	Murder	1 killed

⁴⁵ <http://yn.am/?military&p=42387&l=am> ; <http://armlur.am/373957/> ; <https://www.azatutyun.am/a/27073742.html>

⁴⁶ <http://galatv.am/hy/news/yumrium-ijhkovi-twemapoghocum-zoramasi-2-zincaravoghi-masnakutyamb-teghi-e-uncel-mijadep/>

⁴⁷ <https://news.am/eng/news/277704.html>

⁴⁸ <http://www.aravot.am/2015/02/21/544839/>, <http://www.tert.am/am/news/2015/02/22/gyumri-soldier-missing/1597311>

⁴⁹ <http://shamshyan.com/hy/article/2015/02/23/44013/>

		searching measures were still being taken to identify Afyan within the framework of the criminal case, a criminal case was initiated under Article 104 of the Criminal Code 104 (murder – intentional murder of another person) by the Shirak regional investigative department.		
13.	2017	<p>The residents of the Marmashen community of the Shirak province were outraged that heavy equipment from the 102nd Russian military base reached the “Kamkhud” training ground through the village, damaging the wheat crop. The villagers demanded compensation. The “Kamkhud” military training ground is located near 4 rural communities. It is not the first year that heavy machinery has moved through the fields. But if previously only the areas near the military exercise were damaged, now Russian tanks have increased the area of the affected areas in order to shorten the road.</p> <p>Marmashen residents say they have not yet calculated the amount of damage they suffered this year. They have never received compensation in previous years. The mayor of Marmashen Gurgun Yeghoyan raised the issue of damage suffered by villagers at the last session of the regional council.</p> <p>The former governor of Shirak province Hovsep Simonyan met with a representative of the Russian military base in Gyumri and said that they had discussed with the Russian side what route to choose so that the tanks would not appear in the fields during the movement of military equipment.</p> <p>As for the compensation of the damage suffered by the villagers, a commission will be formed to calculate the damage, and then they will decide whether the compensation will be paid by the Russian or the Armenian side.⁵⁰</p>	Damage to sowing fields of villagers	
14.	2018	On December 2, a soldier of the 102nd Russian military base stationed in Gyumri brutally beat up a woman working in the Municipality’s Communal and Environmental Department in the district called Slabotka. The 57-year old woman died as a result of the injuries.	Murder	1 killed

⁵⁰ <https://www.azatutyun.am/a/28538055.html>

	<p>However, the Russian serviceman was not arrested by Armenian law enforcement officers and is being kept in the 102nd military base, which contradicts a number of Armenian-Russian agreements.</p> <p>Jurisdiction</p> <p>Article 4 of the Agreement on Jurisdiction and Mutual Legal Assistance in the Territory of the Russian Military Base in the Republic of Armenia states that “Cases of crimes committed by personnel of the Russian military base in the territory of the Republic of Armenia are subject to investigation by the competent authorities of the Republic of Armenia, with the application of the RA legislation.”</p> <p>Apparently, the Russian authorities, referring to Article 61 of the Constitution of the Russian Federation, insist that a Russian citizen who is under the control of Russian law enforcement authorities cannot be surrendered to another state (as was done in case of Valery Permyakov).</p> <p>However, the Agreement on the Russian Military Base in the Republic of Armenia signed in 1995 and other subsequent agreements clearly stipulate that the 102nd military base is located in the territory of the Republic of Armenia, and there is no indication that the military base is a Russian territory.</p> <p>That is to say, the Russian military serviceman accused of crime is not in Russia but in Armenia. So, the ban from the Russian constitution does not apply to him.</p> <p>At the 102nd military base, the Russian legislation operates to the extent that is stipulated by intergovernmental agreements. And as has been mentioned in the agreements, it is clearly stipulated that the case should be under the jurisdiction of the Armenian law enforcement authorities.</p> <p>Paradoxical situation</p> <p>Thus, it turns out that a person who killed an innocent woman in the territory of the Republic of Armenia was not handed over to Armenian law enforcement authorities. As a legal consequence, he avoids the persecution stipulated by criminal legislation in Armenia.</p>		
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		Thus, the 102nd Russian military base in Gyumri is protecting the person suspected of committing a crime in Armenia from Armenian law enforcement authorities and from a potential prison sentence in the Republic of Armenia. ⁵¹		
15.	2018	On September 9, 2018, the alarm signal of the Dvin wedding hall in Gyumri turned on in the Department of State Protection of the Police. The Police found the 26-year-old Russian citizen, serviceman of the 102nd Russian military base in Gyumri, Vasily Ichetovkin, inside the wedding hall. He was taken to the police station. It turned out that before the signal call Ichetovkin broke the glass of the back door of the wedding hall, entered the hall and broke all the property there, including the air conditioner, the vases, the door's glass windows, and other items. V. Ichetovkin was tested and had the highest rate of intoxication as a result of alcohol. ⁵²	Property damage, use of alcohol	
16.	2018	On July 17, servicemen of the Russian military base conducted a drill in Panik village of the Shirak region without warning or permission. Russian troops fired ammunition into the air and detonated ammunition. The noise and the war scene terrified the villagers who had blocked the military road and demanded that the Russians explain their actions.	Military exercises without warning and permission	
17.	2019	On March 8, a quarrel and a stabbing took place in the Shirak region. A citizen was taken to Gyumri Medical Center with a "cut-and-puncture wound in the right half of the chest". The police and investigators have found that the injured person was a Russian citizen, a 22-year-old Russian serviceman based in Gyumri, Rajan Kazhimirov. Materials were prepared at the Shirak Regional Investigation Department and a forensic medical examination was conducted. ⁵³	Quarrel and stabbing	1 injured
18.	2019	Arsen Karapetyan, a Russian border guard in Armenia, was found in a house in Yerevan. A 30-year-old soldier was found hanged. A relative of the serviceman told "Azatutyun"		

⁵¹<https://hcav.am/andrey-razgildeev-19-03-19/?fbclid=IwAR1JcCotjBxc8ts2oyvoF3Kk2omwMtGGy5hLXgMYDSnHEzvaiFdVKb4jLuE>
<https://hcav.am/en/azatutyun-am-12-12-2018/> ; <https://uic.am/en/5214> ; <https://hcav.am/en/azatutyun-am-12-12-2018/>

⁵² <http://m.shamshyan.com/hy/article/2018/09/09/1104845/#>

⁵³ <https://www.eng.kavkaz-uzel.eu/articles/48424/>

		<p>radio that the soldier lived with his wife and child in his wife's relatives' home and was building his house near their home. According to “Azatutyun” radio, the relatives linked the suicide with the border department of the Russian Federal Security Service.</p> <p>The relative said that someone in the Russian border troops demanded AMD 700,000 from Arsen and put pressure on him. During that time they tried to borrow money from the bank and give the required amount.</p> <p>“The money was to be brought to the military unit. He had some problems in the military unit. Had he not paid the money, something would have happened to him in the military unit”-the relative said.</p> <p>“Azatutyun” radio tried to get information from the Press Service of the Russian Federal Service border department if Arsen had problems in the military unit, but their calls remained unanswered.</p> <p>The Investigative Committee has not yet found out whether the reason for the soldier's suicide was 700,000 drams.⁵⁴</p>		
19.	2019	<p>The body of a 23-year-old soldier was found today in Gyumri. "Cuts were found on the body of the deceased," investigators have stated. The body is of the soldier Alexander Babushkin; it was found in a city apartment, says the today's publication in the Armenian website of the crime chronicle "Shamshyan.com"⁵⁵</p>		

Thus, according to the case study data available, numerous incidents involving the Russian military personnel in the Republic of Armenia have taken place, including murders, injuries, alcohol-related beatings and disputes with co-workers or civilians, traffic violations, illegal crossing of the border, damage to sowing areas of villagers, as well as military trainings without the permission and knowledge of the Armenian side. As a result, 3 policemen, 16 civilians, 4 of which children, 11 Russian or Armenian soldiers of the Russian military base were killed or died, 8 soldiers and 7 civilians were injured.

⁵⁴ <http://forrights.am/2019/07/25/%d5%ab%d5%b6%d6%84%d5%b6%d5%a1%d5%bd%d5%ba%d5%a1%d5%b6%d5%b8%d6%82%d5%a9%d5%b5%d5%b8%d6%82%d5%b6-%d5%a3%d5%b8%d6%80%d5%ae%d5%a1%d5%ae-30-%d5%a1%d5%b4%d5%b5%d5%a1-%d5%a6%d5%ab%d5%b6%d5%ae%d5%a1%d5%bc/>

⁵⁵ <https://news.am/eng/news/532982.html>; <https://www.eng.kavkaz-uzel.eu/articles/48424/>

Russian Military Presence in Moldova and its Impact on Human Rights Situation

Historical and political background of the presence of the Russian Armed Forces on the territory of Moldova

For a better understanding of the events that have taken place in the Republic of Moldova in the last 3 decades, we must emphasize that the origin of this state is the Ribbentrop-Molotov Pact, signed by Nazi Germany and the Soviet Union in 1939. Thus, on the basis of this unlawful Pact, on June 28, 1940, Romania was summoned to give up part of its territory to the Soviet Union, which in its turn, immediately resorted to crimes against the civilian population and "pieced" these territories, forming on August 2, 1940 the Moldovan Soviet Socialist Republic, consisting of a large part of the occupied territory (on the right bank of the Dniester) and a narrow strip of land of the Ukrainian Soviet Socialist Republic (left bank of the Dniester River)⁵⁶. During the Soviet period, the territory of the Republic of Moldova was strongly militarized and less industrialized, the industry being mainly concentrated on the left bank of the Dniester River.

The Republic of Moldova declared its independence on August 27, 1991, in a period of considerable transformations, accompanied by major risks of potential conflicts in the east and south of the country. By this date, part of the county's territory was not fully controlled by the constitutional authorities because a self-proclaimed entity had been created on 2.09.1990 and on 25.08.1991 - the Moldovan Soviet Socialist Republic of Transnistria⁵⁷. The self-proclaiming of this entity was fully encouraged and supported by the Soviet Union to stop or prevent the dissolution of

the Soviet Union, i.e. the separation of the Republic of Moldova. Paramilitary groups, meant to resist the Independence of the Republic of Moldova, appeared in the southern and eastern parts of the Republic of Moldova.

The military forces of the Soviet Union remained on the territory of the Republic of Moldova, and part of the Soviet military patrimony and arsenal came under the control of the illegal and paramilitary groups on the left bank of the Dniester River, including through the complicity and illegal actions of the Russian Federation, which armed the paramilitary forces⁵⁸.

At the same time, the 14th Army under the command of the USSR, subsequently of the Russian Federation, played a major destabilizing role in the development of the conflict, given that the Republic of Moldova did not even have military forces. On December 6, 1991, the authorities of the Republic of Moldova launched an Appeal to the international community, claiming the occupation of some settlements on the left bank of the Dniester River by the 14th Army, as well as massive transfer of military equipment and weapons to detachments and illegal separatist forces, which in their turn, terrorized the civilian population. Subsequently, a part of the military units of the respective army, with their ammunition and the equipment, joined the separatist and Cossack forces⁵⁹ that had come or had been brought from the USSR to take control of this territory.

On March 2, 1992, on the day when the Republic of Moldova became a member of the UN, an armed conflict started between the constitutional police forces and the illegal forces that were operating on the left bank of the Dniester River, being organized, equipped, armed and managed by the Russian Federation (both the 14th Army and numerous detachments of Cossacks brought from the Russian Federation). Their direct

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[http://justice.md/file/CEDO_judgments/Moldova/ILASCU%20SI%20ALTII%20\(ro\).pdf](http://justice.md/file/CEDO_judgments/Moldova/ILASCU%20SI%20ALTII%20(ro).pdf) par.28

⁵⁷ <http://archive.fo/d17At>

⁵⁸ Par. 48-50, ECtHR Judgment on *Ilaşcu and others v. Moldova and Russian Federation*

⁵⁹ Par. 53-65, ECtHR Judgment on *Ilaşcu et al. v. Moldova and Russian Federation*

involvement against the Republic of Moldova was recognized directly or indirectly⁶⁰, including by the findings of the European Court of Human Rights in the case of *Ilașcu et al.* against the Republic of Moldova and the Russian Federation,⁶¹ but especially by the Ceasefire Agreement signed by the President of the Russian Federation Yeltsin and the President of Moldova Snegur on July 21, 1992⁶².

On November 14, 1991, the President of Moldova issued the Decree on the Announcement of Moldovan property rights to weaponry, military equipment and other military assets belonging to Military Units deployed on the territory of the Republic of Moldova. Contrary to the provisions of this Presidential Decree, the Headquarters of the USSR South East Army liquidated the military units and transferred the weaponry and equipment to Ukraine and Russia⁶³.

On April 1, 1992, at the height of war, the President of the Russian Federation issued the Decree No.320, by which the military units of the former USSR, deployed on the territory of the Republic of Moldova, were transferred under the jurisdiction of the Russian Federation⁶⁴. This Decree of the Russian President was issued contrary to the norms of international law, ignoring the previous Decrees of the President of the Republic of Moldova⁶⁵, as well as Moldova's sovereignty over its territory. At the same time, it should be mentioned that only a few days earlier, on March 20, 1992, the Government of the Republic of Moldova and the Commander of the CIS Armed Forces signed an Agreement, on the basis of which

on March 23, 1992, the Commander of the CIS Armed Forces, Marshal of Aviation E. Shaposhnikov issued the Order no. 314/1 on the transfer, within 7 days, of the military units, military equipment and all the properties of the CIS Military Forces deployed on the territory of the Republic of Moldova under the direct control and direct subordination of the Ministry of Defense of Moldova. Thereby, the Decree No.320 of the Russian President was considered an illegal and unfriendly act that extended to a territory that was not part of the Russian Federation and to persons who were not citizens of the Russian Federation, as well as to structures, and properties not belonging to the Russian Federation⁶⁶.

Regretfully, by reason of war or by any other reason, the Moldovan authorities did not react adequately and did not timely challenge these manifestly illegal actions of the Russian Federation. We believe that the Republic of Moldova did not resort to international instruments, which aggravated the situation both during the war and after the signing of the Ceasefire Agreement. For the Russian Federation, the illegality of Decree No.320 issued by the Russian President remains an extremely sensitive issue, as it implies the possibility of requiring certain compensations that the Russian Federation should pay for the patrimony illegally acquired by the Decree of April 1, 1992.

It has been stated above that the territory of the Republic of Moldova was strongly militarized in the Soviet period. In this respect, the ammunition depot in Cobasna is the clearest proof. The military depot in Cobasna, Râbnița, was the largest warehouse of the Soviet Armed Forces for military operations in the Western Europe. With the withdrawal of the Soviet Armed Forces from the German Democratic Republic and Czechoslovakia, the volume of ammunition and weaponry deposited in Cobasna exceeded 20,000 tons. The actual quantity of

⁶⁰ Russian Troops in Moldova, p. 13-14, Mihai Grecu and Anatol Țăranu, International Literature Publishing House 2004

⁶¹ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-61886%22%5D%7D>

⁶² <https://gov.md/ru/advanced-page-type/comisia-unificata-de-control>

⁶³ <http://www.kremlin.ru/acts/bank/1114>

⁶⁴ Russian Troops in Moldova, p. 103, Mihai Grecu and Anatol Țăranu, International Literature Publishing House 2004

⁶⁵ The Decree of the President of the Republic of Moldova of 14 November 1991 on the announcement of property rights to weaponry, military equipment and other military assets belonging to military units deployed on the territory of the Republic of Moldova and The Decree of the President of the Republic of Moldova no.29 of 18 March 1992 on the transfer of the military units deployed on its territory under the jurisdiction of the Republic of Moldova.

⁶⁶ Russian Troops in Moldova, p. 8, Mihai Grecu and Anatol Țăranu, International Literature Publishing House 2004

weaponry deposited there before the disappearance of the USSR and after the war of 1992 in Moldova could not be confirmed or somehow inventoried. Access to it was very limited in the 1990's and later, it was virtually impossible to monitor or inspect this huge warehouse. Contrary to the concerns of security experts and ecologists⁶⁷, as well as to the commitments of the Russian Federation to evacuate and destroy the munitions by 2003, over the last few years, any discussion in this respect is ignored or avoided. Neither the OSCE, which was very eloquent and active in this respect, displays interest in, dissembling the issue that is crucial for the security of Eastern Europe.

The documents signed by the Republic of Moldova and the impact thereof on the human rights

Hence, the 1992 war has been stopped under the Agreement on the Principles for a Peaceful Settlement of the Armed Conflict in the Dniester Region of the Republic of Moldova¹, signed by the President of the Russian Federation, Boris Yeltsin and the President of the Republic of Moldova, Mircea Snegur. This important document has been signed following abundant appeals and public messages of the President and constitutional authorities of the Republic of Moldova addressed to the Russian President, the public opinion and the relevant international organization, during the armed conflict, endeavoring to search for the support to stop the Russian military aggression.

Therefore, on July 21, 1992, the primary and most important document referring to the war that lasted about 5 months was signed. By signing this Bilateral Agreement, the Russian Federation has practically directly recognized itself as being a party to the conflict as well as its decisive influence on the events in this part of the territory of the Republic of Moldova. This agreement establishes the following: (1) ceasefire and

withdrawal of troops and military equipment from combat positions; (2) creation of a security zone (which was not immediately delimited, which subsequently allowed the abusive takeover of control over certain territories, including localities by *de facto* administration, supported by the Russian Federation); (3) establishment of the Unified Control Commission (JCC); (4) declaring Bender (mun. Tighina) town as a place of residence of JCC and an area with a special security regime, where the public order is provided by the JCC in interaction with the constitutional police structures but also with those of the separatist militia; (5) free movement of goods, services and persons.

The 21 June 1992 Moldovan-Russian agreement had practically no impact on human rights. Although the right to free movement is expressly provided, in reality, after the war, contrary to all Russian guarantees, *de facto* administration had strengthened its control over the occupied territory, setting up control posts, thus limiting the movement of persons, goods and services. With the limitation of access in the controlled territory, the population of the region became captive of *de facto* regime. There were no national or international organizations to monitor the situation on the human rights, which allowed the administration and paramilitary structures to act on their own and under conditions of total impunity. The constitutional authorities did not discuss the problems related to the situation of the persons remaining in the territories controlled by the separatist administration. Thus, they did not develop action plans, they did not create effective institutions and did not include the respective subjects on the political agenda, except for the case of the eight remaining schools under the jurisdiction of the constitutional authorities and Ilascu group.

The Bilateral Agreement of July 21, 1992 was followed by two Agreements between the Government of the Republic of Moldova and the Government of the Russian Federation on the requirements for the withdrawal of military structures in the territory of Russia

⁶⁷ <http://www.interlic.md/2007-05-24/869-869.html> OSCE: The Cobasna depot - an ecological and human disaster;

(on 28.08.1992 and 13.11.1992). There followed a rather long period in which Russia was exploring the possibility to postpone the evacuation of its troops from Moldova, even though numerous actions, declarations and negotiations had been documented, highlighting this need, and the Russian Federation accepted that always. We shall list these steps below to understand their intensity and we shall note that the human rights issue was clearly emphasized in this process.

On August 10, 1992, the Government of the Republic of Moldova issued the Decision No.537 on establishing the governmental delegation to the negotiations with the Government of the Russian Federation on military issues. We did not succeed to identify the Protocol for the first round of negotiations. The second round of negotiations between the Russian Federation and the Republic of Moldova on the withdrawal of Russian troops from the territory of the Republic of Moldova took place on September 16 and 17, 1992. The Protocol of the next round, which took place on December 26, 1993, states, *inter alia*, "representatives of the Transnistrian region of Moldova participated in the negotiations, as in previous rounds."¹ This provision is not clear, as long as the Protocol of the second round expressly states only the delegations of the two states, without mentioning the participation of representatives from the Transnistrian region of Moldova.

The same provision can be found in the Protocol of the fourth round of April 9, 1993, and the Protocol of the fifth round of May 19, 1993 already described the direct involvement of the representatives of the Transnistrian region in the negotiations of the two official delegations. One of the expressions, that is still confusing, refers to the need to synchronize the evacuation of Russian troops from the territory of Moldova with the Transnistrian settlement. In fact, having analyzed the mentioned documents, we noticed that this expression appears only on May 15, 1993 in a press release on the meeting of the President of the Russian Federation, B.N Yeltsin with the President of the Republic of Moldova Mircea Snegur as of May 15, 1993, immediately

enunciated by "the representatives of the Transnistrian region of R. Moldova" in the fifth round as of May 19, 1993.

Therefore, although the press release of May 15, 1993 mentioned that the synchronization of the withdrawal of the Russian troops with Transnistrian settlement represents a common position of the two states and is accepted by "Transnistrian leadership", we noticed that the delegations of Russia and Moldova, which were in the process of negotiation, used other terms regarding the period of withdrawal of Russian troops from Moldova.¹

The Protocol of the fourth round of Moldovan-Russian negotiations on preparing the Agreement on the legal status, the manner and the terms of withdrawing the military establishments of the Russian Federation, temporarily located in the territory of Moldova stipulates very clearly that the parties had discuss the withdrawal period and had decided to continue the discussions during the next round of negotiations. Correspondingly, the same phenomenon shows the gradual change of accents, the replacement or the occurrence of new subjects in negotiations, which will confuse the world and complicate the process of clear and rapid identification of solutions regarding the achievement of the initial objectives. We hereby refer to the fact that the Russian Federation gradually deviated from its main purpose, namely the establishment of period of withdrawing its troops and ammunition from the territory of the Republic of Moldova.

Subsequently, in the fifth round of May 19, 1993, the opinion of the delegation of the Republic of Moldova regarding the establishment of a deadline for withdrawing the Russian troops from the territory of the Republic of Moldova was fought against by that of the Russian Federation, which referred to the common position of the President of the Russian Federation, B.N. Yeltsin and the President of Moldova, Mircea Snegur, as of May 15, 1993. During the sixth round of negotiations on June 23, 1993, the Russian delegation insisted on synchronizing the withdrawal of Russian troops from Moldova with the political conflict settlement and

offering a special status to Transnistrian region (another new element in the bilateral negotiations), while the Moldovan delegation expressly calls for the acceleration of the process without requesting the Russian military withdrawal from the territory of Moldova with the settlement of other issues under negotiation, establishing a maximum deadline - July 1, 1994.

In fact, a simple press release, drafted and published in Moscow on May 15, 1993, was enough to change the focus in the Moldovan-Russian negotiations. The Russian party insisted on the term of "common position/opinion", which was included in the press release and referred to every time, although no official document was signed in this regard, while the work of the Moldovan-Russian Commission on negotiations on the withdrawal of Russian troops was ignored. Later, we notice that according to the Protocol of the working meeting of the experts from the Ministries of Defense of the Russian Federation and of Moldova as of December 21, 1993 the topic of withdrawing the Russian troops was included more formally in the discussions agenda, correspondingly the process was a very slow one, which was followed by the authorities of the Russian Federation as well as the Russian military, who were illegally stationing in Moldova.

Meanwhile, the Russian troops leadership had interfered in the internal matters of the Republic of Moldova and for example on February 8, 1994 the Military Council of the 14th Army issued a Declaration which in fact threatened on the one hand the constitutional authorities but also justified, on the other hand certain actions of the separatist administration to limit the exercise of citizens' rights and freedoms in the Transnistrian region by establishing a emergency state in the controlled territory. Thus, clearly, the Declaration was not only a defiance of all international law rules but also a clear and quite effective action to influence the voters of the Republic of Moldova.¹ The same day, the Ministry of Foreign Affairs of the Republic of Moldova issued a reply Statement expressing

its concern and indignation regarding the Declaration at issue.¹

According to the Protocol of the ninth round of Moldovan-Russian negotiations on developing the Agreement on the legal status, the manner and the terms of withdrawing the military establishments of the Russian Federation, temporarily in the territory of the Republic of Moldova on June 8, 1994 we found out that the delegation of Moldova had insisted on the withdrawal of the Russian troops until July 1, 1996, while the Russian delegation wanted a period of 3 years as of the moment of signing the Agreement. Thus, we noticed that the process was delayed for about 2 years, and when the parties got to actually discuss a real term of the Russian military withdrawal from Moldova, the Protocol mentioned that "the Transnistrian representatives intervened and disagreed with the draft documents discussed and proposed their alternatives, which were not considered by the Russian and Moldovan delegations". Meanwhile, on July 29, 1994, the Parliament of the Republic of Moldova adopted a new Constitution, thus declaring its permanent neutrality, not admitting foreign troops in its territory.¹

On August 9, 1994, the "Transnistrian representatives", who had previously attended (assisted) without any legal basis during the Moldovan-Russian negotiations,¹ issued a Declaration considering and calling themselves as the "Transnistrian delegation" at negotiations. This Declaration actually reiterated the previous proposals of the Russian Federation regarding the withdrawal of Russian military troops only upon settling the issue of the special status of Transnistria, at the same time threatening with the tension and destabilization of the situation and requesting the acceptance of the "Transnistrian delegation" with full rights to the Moldovan-Russian negotiations. These unreasonable statements, ridiculous at that time, were made, being gradually accepted in bilateral negotiations, and subsequently in direct negotiations with the constitutional authorities of Moldova.

Thus, things became complicated to the absurd, with subsequent processes becoming much more complex and difficult for both public opinion and for Moldova's international partners. Even so, the Moldovan authorities had not been able to somehow hold the administration of the Transnistrian region responsible for serious human rights abuses and violations and to identify peaceful and effective intervention tools to protect the inhabitants of the region.

Therefore, we have highlighted the fact that the withdrawal of Russian troops from the territory of the Republic of Moldova has become an increasingly difficult process for the Moldovan authorities, while the separatist administration consolidated its control over the territory. Moreover, armed groups from the Transnistrian region of Moldova were already fighting outside the country, for example against Georgian constitutional forces.¹ For these reasons, the Government of Moldova was seeking the support of the international community. Frequent messages to the international community were addressed from various tribunes, which referred to the need for unconditional withdrawal of Russian troops.¹

These diplomatic efforts were happening at the bottom of events with a high degree of security for the region. A number of letters from the correspondence of the Russian Army Corps of Officers with the Ministry of Defense of the Federation were disclosed to the wider public, in which the military people express their concerns about their disagreement regarding the outcomes of the negotiations and the documents signed with the Republic of Moldova. In fact, the Russian military in Moldova, knowing the situation their colleagues who had been previously withdrawn from other states (Germany, Poland, the Baltic States), tried to ensure decent conditions for their families if they would be transferred to the Russian Federation.¹

The full correspondence between Alexandr Lebed, Commander of the 14th Russian Army in Moldova and Pavel Graciov, Minister of Defense of the Russian Federation ended with the expression “За державу обидно ...” (I feel

for the motherland). At the end of November 1992, i.e. during the period of negotiations on the status, terms and conditions of the withdrawal of Russian troops, A. Lebed, Commander of the Russian troops in Moldova signed an Agreement on transferring the munition to the paramilitary structures, with the separatist administration. Instead, the Russian military got the promise of obtaining “decent housing” and access to “social protection program for military” until 1995.

Nevertheless, on October 21, 1994, the Republic of Moldova and the Russian Federation signed an Agreement on the legal status, the manner and the terms of withdrawing the military establishments of the Russian Federation, temporarily set in the territory of the Republic of Moldova. At the same time, the parties signed another Agreement between the Ministries of Defense, regarding the aviation activity of the Russian military establishments, provisionally dislocated in the Republic of Moldova, and the use of Tiraspol aerodrome by the transport aviation of the Russian Armed Forces. Both Agreements were not ratified by the Russian Federation.

The Russian authorities seemed to be concerned in all directions, on the one hand to cancel or delay the withdrawal of military forces and on the other to offer time and support under all aspects of the separatist administration to strengthen the control over the eastern territory of Moldova.¹ The letter of Moldovan Ambassador to Moscow, as of November 22, 1993, addressed to the President of Moldova, clearly states that the Russian diplomacy blackmailed Moldova with a complication of bilateral relations, demanding from the Moldovan authorities to disclaim the initiative to UN on including on the agenda of the UN General Assembly a resolution on withdrawing the foreign military establishments from the territory of Moldova.¹

These events were happening in the background of serious problems in the Transnistrian region of Moldova, including the security zone, under the accountability of the Russian Federation and its peacekeeping forces. The insistent efforts and the

information of the constitutional authorities regarding the arming of the separatist administration, including by subordinating and illegally taking over some Russian military units, were not paid due attention.

Under such circumstances, it must also be mentioned that since 1992 the OSCE (at that time CSCE) involvement has gradually increased, which also reiterated the need for the immediate withdrawal of Russian military troops from Moldova.¹ Unfortunately, not even the OSCE Mission to Moldova could impose or contribute to the fulfillment of the obligations assumed by the Russian Federation both in 1994 and 1999.

At the beginning, the OSCE Mission in Moldova had only four objectives, two of which expressly related to the topics analyzed in this paper. On February 4, 1993, OSCE decided to establish a Mission to the Republic of Moldova, in order to facilitate the achievement of a lasting, comprehensive political settlement of the conflict in all its aspects, based on the following understanding expressed by the parties to the conflict, and other interested parties, to the Personal Representative of the Chairman-in-Office: (1) Consolidation of the independence and sovereignty of the Republic of Moldova within its current borders and reinforcement of the territorial integrity of the State along with an understanding about a special status for the Trans-Dniester region; (2) An agreement on the withdrawal of foreign troops; (3) Effective observance of international obligations and commitments regarding human and minority rights; (4) Assistance in monitoring the implementation of agreements on a durable political settlement.¹

After 27 years of the OSCE Mission to Moldova, it can be concluded that no practical objective has been achieved, and the human rights situation is ignored and ostensibly excluded from any format of negotiations. Throughout this long period, there have been almost no missions to monitor the situation regarding respect for human rights. Neither the OSCE Mission nor any other international institution has officially insisted on establishing mechanisms or instruments for

monitoring, measuring and improving the situation regarding fundamental human rights and freedoms.

Otherwise, the civil society and human rights defenders were constantly talking and insisting on the need for such tools and mechanisms.¹ On November 1, 1993, Helsinki Watch sent a letter to the President of Russia, Boris Yeltsin, informing him about drafting a report and recommending to the Russian authorities to investigate cases of violations of laws and rules applied during the war, as well as sanctioning the military who had violated them. Helsinki Watch described the situation, regretting that instead of sanctions, the Russian authorities awarded those who had violated the rules of international law applied during the war. Helsinki Watch called on the Russian authorities to stop and condemn human rights violations, committed directly or in complicity with the Russian military in the Transnistrian region of Moldova.¹

On February 2 and 10, 1995, the Republic of Moldova and the Russian Federation signed four Inter-Governmental Agreements, which raise a number of questions, since these are quite general and confusing, in the author's opinion.

According to Article 7 of the Agreement between the Ministries of Defense of the Republic of Moldova and the Russian Federation, on the requirement for withdrawing of 240 pontoon brigade, 237 pioneer brigade and the 1833 EOD warehouse on the Russian Federation territory, the Moldovan party, officially and unaccountably, accepted that the illegal paramilitary structures in Transnistria should be armed with military equipment and weapons from Russian troops.¹

Respectively, the developments during this period were full of uncertainty, demonstrating a duplicitous behavior both, on behalf of the Russian and Moldovan authorities. On the one hand, as in the case of signing of the Agreement between the Ministers of Defense of the Republic of Moldova and the Russian Federation, these allow the Russian Federation to send military means and weapon to the separatist

administration, and on the other hand, the constitutional authorities issued letters and statements regarding the illegal involvement and support of the separatist regime by the Russian Federation.¹

In this context, we shall highlight the fact that by organizing the alleged referendum on the withdrawal of Russian troops from Moldova, on March 26, 1995, things got permanently tangled. All this happened by the complicity and direct involvement of the Russian authorities, on the one hand, but also by the passive or incompetent behavior of the Moldovan authorities, which were limited to declarative actions. With the organization of this supposed referendum,¹ the Russian authorities adopted a hostile behavior towards all the documents negotiated for years and signed by the Russian Federation previously. Thus, the obligations of Russia under the international law and committed to directly and repeatedly, were consciously ignored or violated. Shortly, on April 26, 1995, the Russian State Duma adopted the “Decision on the situation created around the 14th Army”,¹ stating that the withdrawal of its troops from Moldova will contribute to “straining the situation on the Transnistrian territory”, it recommended to the Russian Government “to take measures for the effective functioning of the 14th Army” and proposed to the President and the Russia “to take further political measures and economic measures for stabilizing the situation around the Moldovan Transnistrian Republic”.¹

Again, the Moldovan authorities limited to declarations, letters and diplomatic speeches, while the Russian Federation continued to provide multilateral support to the Tiraspol separatist regime, including by adopting documents that defy the international law and the bilateral documents signed with the Republic of Moldova.¹ For example, the Decision of the Russian State Duma “on the address of the Supreme Soviet of the Moldovan Transnistrian Republic”, by which the Russian Parliament proposes to the Russian President to declare the Transnistrian region

of the Republic of Moldova as a territory of strategic interest for the Russian Federation. In fact, it must also be mentioned that all this challenge for the institutions of the international rules took place during the first war in Chechnya.

In November 1995, the Russian Federation projected “the transfer of functions from the Russian peacekeeping groups to certain units of the Russian Army of Moldova”, an initiative considered by the Moldovan authorities as a violation of the bilateral Agreements of 1992 and 1994.¹ Moreover, the members of the Moldovan delegation within the Unified Control Commission declared that the provisions of the Moldovan-Russian Agreement of 1992 are not respected in the security zone, noting that “the activity of the Russian peacekeeping forces in the Republic of Moldova does not meet UN/OSCE standards and that the peacekeeping forces of a state cannot substitute the peacekeeping forces of international organizations.”¹

During 1996-1997, according to the documents analyzed, the Russian Federation destroyed part of its ammunition and reduced the number of its military contingent in the Republic of Moldova to 2500 soldiers.¹

Since 1994, the Moldovan constitutional authorities agreed to sign certain documents with the separatist administration representatives.¹ Initially, social or economic declarations were signed, but, subsequently, political and legal documents were signed as well. For example, on April 28, 1994, the parties have signed a protocol on the intention to collaborate. The document was signed by the law enforcement bodies representatives, deciding to collaborate in order to ensure public order and crime fighting. In fact, this happened under the suspicious conditions and circumstances, that is, the provisions of the Moldovan-Russian Agreement of July 21, 1992 were ignored and violated by the “Transnistrian law bodies representatives” by occupying and militarizing the security zone, including

Bender city (a security area with increased security regime), establishing guard posts, etc. contrary to the documents signed with the Russian Federation and to the internal provisions of the Unified Control Commission. Therefore, it can be noticed that the constitutional authorities admitted certain mistakes, perceived by the public opinion as concessions, by violating the national law and it can also be noticed that they signed only the documents benefitting the Russian party that was pursuing its replacement to the negotiating table, losing its status as a party to the conflict, as well as strengthening the control over the Transnistrian territory by the separatist administration, which it continued to support plenary. The true reasons for these concessions, on behalf of the constitutional authorities of the Republic of Moldova, are neither clear nor known. The concern remains with regard to the lack of any discussions or documents signed on human rights issues. These issues represented the most serious challenges for the local population in the region and in the security zone, who remained without access to any effective legal instruments for defending their rights and without real guarantees from the constitutional authorities.

The “official relations” between Moldova and its Transnistrian region have progressed, so that in 1995 other documents were signed to regulate matters such as the movement of cars, the activity of the mail, and the circulation of money, the repair of bridges and in the field of education. In 1995, two documents were signed, based on which the well-known “5 + 2” (initially 3 + 2) format of political negotiations was established.¹

On March 11, 1996, the President of the Republic of Moldova, Mircea Snegur, signed a Protocol with the Transnistrian “president” Igor Smirnov, under which, contrary to the constitutional rules and in the absence of the legal empowerments, it was accepted that Transnistria would adopt its own Constitution and legislation. On February 7, 1996, the Protocol Decision was signed on settling the problems arising in the activity of

the customs structures of the Republic of Moldova and Transnistria”. On June 17, 1996, the Memorandum on the stabilization of relations between the Republic of Moldova and Transnistria was signed, and on May 8, 1997, the Moscow Memorandum on the basic principles regarding the stabilization of relationship between the Republic of Moldova and Transnistria was signed¹, which was subsequently interpreted by the Russian Federation and the separatist administration as a recognition of Transnistria, but considered in Chisinau as a free gesture but also dangerous precedent for other similar conflicts. Although the document contained formulas that would benefit the constitutional authorities¹, these were quickly canceled by ignoring their execution and observance.

Instead, once signed, they served as the basis for the adoption of increasingly aggressive and non-cooperative behavior by *de facto* administration, which unexpectedly strengthened and formalized its status as a negotiator and broad rights stakeholder within the negotiation process. Thus, Tiraspol got the opportunity to influence significantly the domestic and foreign policy of the constitutional authorities, but it also obtained some recognition, after having consolidated its control over that territory and gained the possibility to carry out independently the import-export operations by using the customs stamp. However, the document signed on May 8, 1997 was the first to refer and to contain in the Preamble human rights provisions, ¹ which shall certainly remain for the following decades as being declarative by nature.

The most intense period of direct discussions, meetings and negotiations between the constitutional authorities of the Republic of Moldova with the *de facto* administration of the Transnistrian region was 1997-1999, with over 50 documents being signed. The initiatives and signed documents were based on the principles of a common state with a common economic, legal and social space.¹

An interesting document from this period is also the shortened Transcript of the parliamentary hearings from the Russian Federation State Duma as of December 9, 1997 with the topic “Russia-Moldova-Transnistria. The strategic interests of Russia“. In addition to being a serious violation of the international law and bilateral documents with the Republic of Moldova, such discussions in the Russian Parliament, shall be deemed as an official acknowledgment that the Russian Federation had contributed to the creation, consolidation and plenary support of that entity, having full control over the territory through a group of people, supported by its military presence. During the hearings, Russian MPs and other participants addressed geopolitical, military, political, historical, ethnic, financial, social issues and questions related to the status of the Russian language in Moldova, rather than touching on the human rights situation, even if the representatives of the Republic of Moldova were also present during the hearings. This transcript shows an improper behavior by Tiraspol representatives, who actually spoke on behalf of the Russian Federation¹. On the other hand, in the end, the Deputy Foreign Minister of Moldova regretted the atmosphere of the discussions, and the chairperson of the meeting Mr. Mironov acknowledged that, justifying his colleagues by their lack of diplomatic background.¹

Therefore, it can be noted that, after the concessions obtained from the Republic of Moldova, the separatist administration totally ignored the compliance with any commitments rapidly evolving by requesting new concessions, with reference to the same documents they neither complied with.¹ During 1995-1999, a number of documents were signed by the Moldovan constitutional authorities with the *de facto* administration, the latter succeeding in obtaining unexpectedly, practically everything they wanted and thus, obtained the possibility to influence decisively or to block decisions and policies of the constitutional authorities.

Accepting the signing of the official documents with the illegal Transnistrian administration left room for interpretations, as well as actions that further complicated the situation. Thus, contrary to previous international commitments, contrary to the numerous negotiations between the Russian and Moldovan authorities on the withdrawal of Russian troops from Moldova¹, on March 20, 1998, the Russian Federation (Prime Minister Chernomyrdin)¹ directly signed, with Igor Smirnov, the “Odessa Protocol” on military and patrimonial issues.¹ In this document, the Russian Federation already admitted the expression “Russian troops deployed in Transnistria” and thus, unilaterally deciding on the situation of military goods and properties. It is worth mentioning that on October 21, 1998, the Ministry of External Affairs of the Republic of Moldova, in a statement, expressed regret about the lack of progress as to the withdrawal of Russian troops and the Russian Federation's non-compliance with the Moldovan-Russian Agreement of 21 October 1994.

There are also numerous OSCE documents encouraging the Russian Federation to comply with the international commitments and, at the 1999 OSCE Summit in Istanbul,¹ when Russia faced a violent war on its territory, with serious infringements of human rights (the second war in Chechnya), it pledged to withdraw all the troops from Moldova (including Transnistria) by December 31, 1999.¹

In their statement, at the Istanbul Summit, on November 19, 1999, the heads of states and governments of OSCE states, stated that they expected a “rapid, adequate and complete withdrawal of Russian troops from the Republic of Moldova” and welcomed the commitment made by the Russian Federation to complete, by the end of 2002, the withdrawal of the armed forces from the territory of the Republic of Moldova.

Finally, they recalled that, an international evaluation mission was ready to immediately monitor the withdrawal and destruction of

Russian ammunition and weapons. In the observations addressed to the Parliamentary Assembly of the Council of Europe in 1999, the Moldovan Government mentioned that, at that time, the official figure presented by the Russian authorities regarding the quantity of the Russian Troops Task Force' (GOTR) weapons and ammunition stored in Transnistria was 42000 tones, but that figure could not be verified, because both, the Russian authorities and the Transnistrian separatists, refused to give access to an international evaluation mission.¹ Thus, during 1999-2002, a certain amount of ammunition was destroyed, and many wagons with GOTR equipment were evacuated to Russia.¹ However, the illegal Tiraspol administration created obstacles in this regard¹, under the pretext that the evacuation of Russian troops was a "bilateral problem between Russia and Transnistria", creating numerous obstacles for the international inspection during the evacuation process. Obviously, the Russian authorities probably directed these actions because, just a few months after the Istanbul Summit, there was registered an attempt to deflect Russian commitments. On July 13, 2000, Prime Minister of Russia, Kasyanov, proposes to the Moldovan Government to accept the transformation of the GOTR into "stability assurance forces". On June 15, 2001, the Russian Federation and the region administration signed a protocol on jointly carrying out the works for the use of weapons, military equipment and ammunition. Later, on September 24-26, 2002, Russia and the *de facto* administration of Transnistria signed a Protocol by which Russia provided financial support to the *de facto* regime in Transnistria, on the pretext of allowing the process of evacuation of Russian troops to continue.¹ The information and details on the quantity of ammunition and equipment destroyed or evacuated to Russia, as well as the amounts donated by various states for this purpose, are contained in the Reports of the OSCE Mission in Moldova to the donor states, on activities related to the Voluntary Fund for the evacuation and disposal of Russian equipment and ammunition from Moldova.¹

In January 2003, Russian Foreign Ministry officials announced that Russia would maintain its military presence in Moldova, including after the completion of the evacuation process of ammunition and military equipment, insisting, unilaterally, "under these circumstances, the Russian military presence in the region has to take new forms, corresponding to the new tasks and functions".¹ The Russian Federation continued the process of seeking solutions, which would have cancelled its obligations to evacuate Russian troops from Moldova, previously assumed. On May 5, 2003, the Russian President Vladimir Putin, in a letter addressed to the President of the Republic of Moldova, Vladimir Voronin, calls on the Republic of Moldova to conclude a Moldovan-Russian bilateral agreement on the "military guarantees" of the Transnistrian settlement. Thus, Russia is insisting on the signing of new documents, without respecting the commitments made by signing them. The concerns of the Moldovan authorities and society have also been fueled by the energy and economic dependence on Russia, which aptly applied them to blackmail the Moldovan constitutional authorities whenever this was necessary. There were other proposals for solving the Transnistrian problem, including the federalization of the Republic of Moldova, which was categorically rejected by the Moldovan society, but, surprisingly, supported or accepted by many international actors. However, the Russian Federation insisted, as always, to obtain two important things: to avoid the withdrawal of its troops and to maintain its influence over the Republic of Moldova through the "Transnistria" instrument. Both objectives of the Russian policy have been achieved and are still valid after numerous efforts compromised by the continuous ignorance and violation of the norms of international law.

The discussions on the federalization of the Republic of Moldova were the most intense in the period 2002-2003¹. In 2001, the position of the new constitutional authorities

regarding the political, economic and geopolitical vector coincides with that promoted by the separatist administration. In these circumstances, already in April 2001, a series of provisions were signed referring to the joint efforts regarding the integration into the "Russia-Belarus Union" and the officialization of the Russian language in the Republic of Moldova.¹ In addition, a series of documents were signed in the economic, customs, media, banking, telecommunication, investments, recognition of documents fields, etc.

As absurd and ridiculous, we can mention a working document¹, which provides for the creation of a joint commission on examining the issues regarding the "compensation of damages to "Pridnestrovie", following the armed conflict of 1992". Therefore, we note the use of a new official term for the Transnistrian region, but in particular, the issues regarding the "compensation of Transnistria for the damage caused by the armed conflict" raised concern in the Moldovan society. This is, in fact, a new and serious problem and a problem for future negotiations on solving the Transnistrian problem. The emphasis have been shifted from the problems of withdrawal of the Russian troops to "bilateral" negotiations, which are dangerous for regional stability and security. It must be emphasized, again, that the process of signing these documents continued without a legal basis and contrary to the national law. Although it had an absolute majority in the Moldovan Parliament and capable of amending the Constitution, the Communist Party did not operate amendments to the national law to "legalize" the negotiations and "bilateral" documents with the *de facto* administration of the Transnistrian region of the Republic of Moldova. Paradoxically, we find reference to human rights in a document that comes to regulate the aspects of "collaboration" between the penitentiary systems of the Republic of Moldova and the Moldovan Republic of Transnistria".¹

After an intense period of efforts (optimistic statements, meetings and discussions

concluded with the signing of numerous controversial documents), on July 4, 2001, the President of the Republic of Moldova, Vladimir Voronin, publishes a statement declaring that certain actions of the Tiraspol administration are in contradiction with the signed documents.¹ Vladimir Voronin asked the *de facto* administration of the region to respect the provisions signed with the constitutional authorities. This statement was the first signal that the constitutional authorities were attracted to a dangerous game with false intentions and hidden purpose. Vladimir Voronin and the Communist Party of Moldova, in power at that time, were convinced that thank to their pro-Kremlin position and policy, the Russian Federation would transfer its attention and support to Moldova from the separatist administration to Voronin and the Communist Party. Obtaining an unexpected recognition, sufficient to block the process of political negotiations, the *de facto* administration of the Transnistrian region, covering itself with the numerous documents signed by the constitutional authorities, consolidates its control over the territory under conditions of total impunity.

Unfortunately, the Moldovan constitutional authorities did not asked for access of its relevant institutions to the Transnistrian region, to learn the situation on the ground. Similarly, no document provides for the monitoring of the situation regarding the respect of human rights by specialized organizations (national or international).

From a period of maximum negotiation intensity, since July 2001, the confidence in the negotiation process, the real intentions of the participants, but also the value of the documents and the commitments made, has decreased, especially on the part of the constitutional authorities. In these circumstances, the role of mediators (OSCE, Ukraine and Russia) is increasing, which endeavors to organize meetings, establish the negotiation agenda and respect the commitments made. At the same time, we will reiterate that the emphasis and discussions have been moved from the

problem of withdrawal of Russian troops to "direct negotiations".

Following consistent efforts of the mediators, a new Agreement on the principles of relations between Moldova and Transnistria is signed on September 18, 2002, which decides on a federative state. At the same time, human beings, their rights and freedoms are declared supreme values, and the recognition, respect and defense of the rights of citizens are declared an obligation of the state. However, at the end of the year, on December 5, 2002, the Moldovan Delegation does not sign the Declaration of Intent, which says that the Republic of Moldova and the Moldovan Republic of Transnistria have decided to continue the negotiations based on the concept of the federal state.

According to the document posted on the Government page, the Declaration was signed by the *de facto* administration of Transnistria, OSCE, Russia and Ukraine¹. Another confusion arises on December 17, 2002, when the Protocol of the session "Permanent consultations on political issues in the process of negotiations on Transnistrian settlement" was signed in Moscow, by which it was decided to elaborate a final document on Transnistrian settlement". According to a Protocol of February 26, 2003, signed by mediators (OSCE, Ukraine and Russia), the mediators propose the "parties" to appoint their representatives, who will participate in the elaboration of the Constitution of the federative state.

In this way, we observe that the discussions on the modification of the state have advanced a great deal, but without the necessary transparency and without wide consultations within the country and without publishing the content of these discussions and negotiations, which generates instability and anxiety in the society¹. Regrettable is the fact that such procedures were accepted and probably encouraged by Ukraine and the OSCE. Later, according to the Protocols of the meetings of the mediators, their insistence on the acceleration of the elaboration of the new Constitution (of the

federative state)¹ is observed, but the meetings were rather formal and without result. The year 2004 is marked by a pause regarding the meetings and the documents signed. Instead, the separatist administration of the Transnistrian region, by serious violation of the human rights, takes hard actions and tries to take over the "last redoubts" of Transnistria remained under the jurisdiction of the constitutional authorities – the eight Moldovan schools with the teaching of the Romanian language in Latin script¹ and the agricultural lands of the inhabitants of the six Dubasari rayon localities¹. These two cases finally drew attention to the serious problems faced by the population of the region, which remained hostage to the negotiation process and without any protection from the relevant constitutional authorities or international institutions.

On May 17, 2005, Ukraine proposes "Yushchenko Plan" – "Toward settlement - through democracy", and the Republic of Moldova requests the invitation of the EU and the US as observers in the negotiations, who attended on October 28, 2005 the first meeting of the negotiation format "5 + 2". During May 2005 - February 2006, subjects such as the functioning of the Moldovan schools in Transnistria, the need for an exchange of data and information regarding the military arsenal of the Republic of Moldova and the Transnistrian region, were discussed.

At the same time, at the initiative of Ukrainian President Victor Yushchenko and Russian President Vladimir Putin (Joint Declaration of December 15, 2005) and, under the pretext of democratizing the region and strengthening civil society and human rights, based on OSCE and Council of Europe standards, the need for transparent conditions for organizing democratic elections for the "Supreme Soviet of Transnistria", with the participation of the international community, was underlined. Considering that, an important step in this regard could be the establishment of an international assessment mission under the auspices of the OSCE to analyze the situation

and make appropriate recommendations. Thus, human rights are used declaratively to justify political interests once again. In reality, the serious situations regarding the state of human rights have remained without the attention of international actors and constitutional authorities.

In 2003, the President of Russia, Vladimir Putin, was to come to an official visit to Chisinau to sign a document called the "Kozak Memorandum"¹. The document was not signed because Vladimir Voronin, Moldovan president, changed his mind and gave up the idea of signing the document in the morning of that day.¹ Thus, Vladimir Putin had to make a return trip from Moscow airport. One of the main arguments invoked by the opposition was that according to this document, the Russian Federation was to keep its military troops on the territory of Moldova for at least 30 years, which was not denied by the Moldovan President Vladimir Voronin¹.

The refusal to sign the "Kozak Memorandum" caused the deterioration of the Russian Federation with the Republic of Moldova. Russia introduced economic sanctions against the Republic of Moldova, firstly by stopping Moldovan exports on the Russian market, which generated enough problems for Moldovan farmers and exporters, in particular for those depended on the Russian retail market.

Therefore, we can see the interest of the Russian Federation and its constant efforts, desperate to maintain the presence of its troops in the territory of the Republic of Moldova, which were above the norms of international law, the bilateral agreements with the Republic of Moldova, the international commitments, etc. and to the detriment of human rights and freedoms, economic interests and social needs of the population.

Based on the analysis of documents and events so far, it is obvious that the human rights situation has neither received the attention of the Russian or Moldovan authorities, nor of the relevant international

organizations. We found that during the approximately 28 years of political negotiations, all the attention of the constitutional authorities and other actors concerned focused on the issues of military, political, economic or geopolitical nature, ignoring the daily problems of the local population, as well as the serious human rights violations and the lack of the human rights protection mechanisms and effective remedies

One of the most discussed human rights issues was the situation of the eight Moldovan schools in the Transnistrian region. These schools refused to go under the *de facto* administration's control (jurisdiction) and asked the Moldovan constitutional authorities to guarantee their right to education¹. However, over the years, the illegal regime from Tiraspol has created many obstacles and problems for these institutions (teachers, parents and students) in their intention to force them to accept the jurisdiction of the *de facto* administration and its educational program. In these circumstances, the subject of the functioning of the Moldovan schools was the only one with respect to the observance of human rights, the only case in which the constitutional authorities of the Republic of Moldova demanded guarantees and insisted on the respect of the rights of a category of persons in the region.

Thus, after the signing of the Memorandum of 1997, four working groups were created (foreign economic activity, customs activity, education and crime fighting), respectively only one refers to the efforts of the constitutional authorities to guarantee and defend human rights in Transnistria¹. However, even these efforts have failed because of the *de facto* administration's repeated attacks on Moldovan schools. The critical point occurred on July 15, 2004 when the local militia abusively occupied the premises of some schools, the problem being solved only with the involvement of international partners. On October 19, 2012, the European Court of Human Rights found the violation of the right to education for the

170 parents, students and teachers from Moldovan schools who complained to the European Court.¹

The collaboration agreement and the principles of collaboration between the Ministry of Interior of the Republic of Moldova and the management of the internal organs of Transnistria of January 26, 1999, as well as other documents signed prior to the OSCE Summit in Istanbul were possible under the pretext of accelerating the process of solving the Transnistrian problem. However, in fact, most of them were necessary for the consolidation of the Transnistrian *de facto* administration and partial recognition of this state of affairs. The vast majority of the signed documents referred to the economic, financial, banking, customs, social, cultural, etc. aspects, but not to the aspects that would guarantee the respect for human rights.

The background of the human rights in the Transnistrian region

Freedom House assesses the Transnistrian region as being non-free with a ranking of 24/100⁶⁸. The lowest score is recorded by civil liberties, and the freedom of the press is ranked 0 out of 4. The report highlights the harassment of the press by the region administration, which restricts access to information and censors the independent press⁶⁹.

The national mechanisms for the human rights protection, applied at international level and available to constitutional authorities have little impact. The Ombudsman report of 2018 stated that the institution cannot intervene in the region “in order not to put at risk the employees of the Ombudsman’s Office or the citizens from the left bank of the Dniester, as well as in the

neighboring localities”⁷⁰. This statement conveys two essential ideas: both those offering help and those asking for help are at risk of being persecuted. Although being the most important and consolidated human rights institution in Moldova, the Ombudsman’s institution cannot carry out its activities in the Transnistrian region.

Generally, because of the intimidation and persecution of human rights defenders, which has become more visible recently, the framework for the non-governmental sector’s activity is permanently limited. In the latest report, the UN Special Rapporteur M. Forst, mentioned that in the Transnistrian region, the new amendments to local enactments treat broadly the notion of “political activity”, against the international provisions and standards⁷¹. A non-governmental organization aiming to defend and promote human rights in the region is regarded as a political opponent of the government, with all resulting consequences.

It is important to mention that within the Universal Periodic Review, Moldova accepted a number of recommendations on the respect of human rights in the Transnistrian region. In particular, attention was drawn to promoting the human rights and establishing a mechanism for monitoring the situation, with the involvement of the civil society representatives from both banks of the Dniester⁷². Subsequently, these recommendations were transposed into the National Action Plan on Human Rights approved in 2018⁷³.

⁷⁰ Report on respecting human rights and liberties in 2018, Ombudsman, https://ombudsman.md/wp-content/uploads/2019/03/RAPORT_2018-1.pdf See page 73;

⁷¹ See the report of Special rapporteur M. Forst <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23291&LangID=E;>

⁷² See the list of recommendations within UPR, following the revisions in 2016 https://www.upr-info.org/database/index.php?limit=0&f_SUR=113&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly;

⁷³ See the Parliament Decision No. 89 as of 24.05.2018, on approving the National Action Plan in the field of human rights for 2018–2022, Part II, Intervention area: Respecting the human rights in the left bank of the Dniester river of the Republic of Moldova;

⁶⁸ See the profile of the Transnistrian region on the situation of 2018, <https://freedomhouse.org/report/freedom-world/2018/transnistria;>

⁶⁹ Ibidem;

It is worth mentioning that the local justice system is dual.

A. The *de jure* system, the constitutional one, not actually applied in the Transnistrian region of Moldova, but declaratively guaranteed by constitutional rules and international commitments.

B. The system created and applied in the territory controlled by *de facto* region administration, actually producing legal effects. In reality, this system is not only illegal but also inefficient since defending the interests in the alleged courts is often an illusory activity. Freedom House ranked this justice system with a low score, as it lacks independence and transparency. The system is most frequent criticized for the lack of any independence of judges from the executive⁷⁴. The litigants are most often forced to exhaust the legal remedies twice: once the system applied by *de facto* administration of the Transnistrian region and a second time at the level of constitutional courts in order to be able to carry out plenary or guarantee own rights (the situation of marriage dissolution, birth, death, etc.). Therewith, it should also be pointed out that the ECHR has recently examined several cases on the human rights violations in the Transnistrian region, emphasizing that the alleged courts in the region belong to a system that does not operate on a constitutional and legal basis reflecting a legal tradition compatible with the Convention⁷⁵. Therefore, the documents issued by such alleged courts in the region are not legally recognized.

The freedom of expression and access to justice are only 2 issues described in the context of our analysis. According to the UN Expert T. Hammarberg⁷⁶, to a certain extent,

⁷⁴ Ibidem, Report of Freedom House;

⁷⁵ See paragraph 436, Judgement Ilaşcu and others v. Moldova and Russia;

⁷⁶ See the declarations of T. Hammarberg <http://md.one.un.org/content/unct/moldova/ro/home/presscenter/press-releases/statement-by-senior-un-human-rights-expert-thomas-hammarberg-on.html>;

the torture and arbitrary detention in the Transnistrian region of Moldova continue to be a problem, along with other deviations. The same situation is described in other specialized reports on human rights in the Transnistrian region⁷⁷. The Ombudsman report describes concrete cases of abusive arrest and detention in inhuman and degrading conditions⁷⁸. Thus, the lack of guarantees against arbitrariness remains a serious problem for the inhabitants of the Transnistrian region.

The impact of the Russian army presence over the general situation in the Transnistrian region

Two Russian military contingents are present in the Transnistrian region of the Republic of Moldova. The first is the Russian Troops Task Force (GOTR), safeguarding the ammunition depots belonging to the Russian Federation, the second military contingent participates in the peacekeeping mission. Since 2011, the GOTR statute has been substantially modified. As a result of this reform, GOTR became a military entity with separate status, special missions, an entity of the “Western” Military District of the Russian Federation.⁷⁹ Given the special (secret and closed) nature of these structures and the way of operation, obviously there is no real possibility to measure the degree of respecting the rights of the military staff. However, we will try to analyze the way their presence impacts the human rights violations in the Transnistrian region. We will commence from the fact that the Russian military presence decisively influences the decisions of the institutions and groups of people directly governing the local structures, i.e. those violating the human

⁷⁷ See the report of the USA State Agency on the Republic of Moldova

<https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>;

⁷⁸ See page 78, https://ombudsman.md/wp-content/uploads/2019/03/RAPORT_2018-1.pdf;

⁷⁹ See “ Security and defense risks in the context of the Transnistrian settlement”, IDIS Viitorul 2017 by Rosian Vasiloii, p.6 <http://www.viitorul.org/files/Riscuri%20de%20securitate%20si%20aparare%20-%20%20Mai%202017%20rev2.pdf>

rights in the Transnistrian region (the supposed control over the “public powers”). In the ECHR language, this type of control corresponds to the personal control model over a territory. Therefore, in the case of *Al-Skeini v. the United Kingdom*, the Court upheld both personal and territorial principles by establishing the notion of “public powers”, exercised by the state in an extraterritorial way⁸⁰. The Court also upheld the clear link established between a person and the respondent government if the latter exercises its powers within their agents⁸¹. Therefore, the military presence may involve the exercise of “public powers”. The illegal use of the military presence in the region aims at ensuring the control over the “public powers”, managing the activity of the subordinate institutions, or in other words of the “parallel state”.

Therefore, we wonder whether there is a subordination between the Russian army and the structures that would administer and control Transnistria. The revision of the local public documents allows us to confirm the existence of such a sustainable connection from the beginning⁸², which is proven by a number of circumstances. But we will stop at the most relevant acts and actions. Thus, on June 15, 2016, the “Supreme Soviet of the MRT” approved amendments to the “Criminal Code of the MRT”, by introducing a new crime component: “denial of the role of the Peacekeeping Mission of the Russian Federation in Transnistria”. This statement provides for the possibility of applying a criminal sanction for any action or declaration expressing *a clear lack of respect for the Russian Federation’s peacekeeping mission in “MRT”, referring to distorting the positive role of this mission or somehow affecting the merits of the Russian Federation in peace keeping*. Therefore, this rule, besides being a challenge of freedom of expression, imposes a single ideology. Thus, the region administration recognizes the vital role of the Russian army in creating and

upholding the separatist enclave and transforms it into ideology.

The situation reveals the geopolitical and security interests of the Russian Federation, the extension and upholding the influence, and the strategic positioning of its armed forces⁸³. Is not a secret that the separatist entity was established by the Russian Federation, however, if by 2016 the presence of these structures could be at least discussed, after adopting these amendments any negative statement would in fact mean the risk of criminal sanctions for those from the Transnistrian region. Therewith, it becomes at least very strange that for a territory, where *de facto* administration claims that over 95% of the population wants to be annexed to the Russian Federation, there are criminal rules condemning the Russian military presence in the region. However, the secessionist administration prepared such changes especially for those outside the region as a control and pressure mechanism, although in the controlled territory the real situation is different from what is being declared, and there are voices revealing certain illegalities of the Russian army.

During the last 27 years, the Transnistrian region of the Republic of Moldova has constantly benefited from Russian resources and funds. At the same time, the population of the region represents a resource for the Russian state. For instance, the Russian Federation has generously offered its citizenship, and the young people of enrollment age can be enrolled in the Russian army, concomitantly with the forced enrollment in the militarized region structures. It is not possible by any means to monitor these important aspects for regional security. Considering their very high integration degree, currently it is almost impossible to clearly define neither the identity nor the place of origin of the military staff of the paramilitary and Russian

⁸⁰ *Al-Skeini et al vs United Kingdom* [CG], no. 55721/07, § 135, CEDO 2011;

⁸¹ *Al-Skeini*, § 136;

⁸² See *Ilașcu and others vs. Moldova and Rusia*, the case no. 48787/99;

⁸³ See report on the Non-execution of ECHR judgements in the transnistrian cases, p. 16, <https://promolex.md/wp-content/uploads/2018/09/Studiu-Neexecutarea-hot-CEDO-romana-web.pdf>;

structures. These military structures also represent both a national and regional threat to the security. In this sense, having analyzed the national Law on the prevention and combating terrorism, the Venice Commission inquired whether the notion of terrorist activity covers the Transnistrian region, or the secessionist administration, including the militarized structures supported by the Russian army could be treated as terrorist establishments⁸⁴.

Therefore, when talking about the military forces of the Russian Federation in this territory, several dimensions are considered. Firstly, the Russian Federation insists that its military presence in this area of the Republic of Moldova aims merely at ensuring and maintaining the peace in the region, aggressively promoting this, particularly in the territory controlled by the separatist administration. The international community, the constitutional authorities and the majority of the population of R. Moldova, perceive the situation differently, appraising the Russian military presence as an occupation, that is, troops that Russia refuses to evacuate despite its international commitments. In the third perception the situation is regarded as a real danger to regional security.

In the context of these dimensions, the boundary between the military establishments in this territory is somewhat obsolete - on the one hand the Russian military forces (GOTR and the peacekeeping forces) and on the other hand the paramilitary forces (the structures under *de facto* administration). Accordingly, the Russian Federation must commit to observe the human rights protection, including the rights of the enrolled individuals⁸⁵. This statement is supported by publicly available evidence. For example, GOTR military exercises continue on a regular basis, despite the criticism of the Moldovan constitutional

authorities⁸⁶. As of March 2018, they are announced on the website of the General Staff of the Western Military District of the Russian Federation, while the Russian military within GOTR continue to promote and involve the population of the region in military activities. An example would be the opening in July 2018 of the first military-patriotic camp “Red Star” for children who will study military disciplines⁸⁷. During August and October 2018, GOTR jointly with the Transnistrian paramilitary forces conducted extensive military exercises in the Transnistrian region⁸⁸. These are just few examples showing an unprecedented and open illegal activity of the Russian military in this territory of the Republic of Moldova. Obviously these actions are against the commitments undertaken by the Russian Federation, conflicting with the status of mediator and guarantor within the Transnistrian settlement.

Human rights violation cases related to the Russian military presence

Under the international law, the stationing of one state’s armed forces on the territory of another state always rises questions and implies serious legal connotations, such as the applicability of the humanitarian law and/or occupation rules. From the ECHR’s perspective, the stationing of the Russian army mainly establishes a so-called “jurisdictional” link of the Russian Federation with the Transnistrian region⁸⁹. Pursuant to the national constitutional jurisprudence, it should be noted that the stationing of the Russian army on the territory of the country represents a deliberate violation of the Moldovan Constitution. Thus, the Constitutional Court concluded that the Russian Federation rather than withdrawing its occupation troops from the east, strengthened its military presence, which is a violation of the

⁸⁴ See paragraph 16, Opinion of Venice Committee, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)024-e;](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)024-e;)

⁸⁵ https://promolex.md/wp-content/uploads/2019/03/Raport_NED_7-12_2018_OM_eng.pdf;

⁸⁶ <https://bit.ly/2TOEAut;>

⁸⁷ <https://structure.mil.ru/structure/okrugawest/news/more.htm?id=12185156@egNews;>

⁸⁸ <https://bit.ly/2TNF3gv;>

⁸⁹ <https://promolex.md/wp-content/uploads/2018/09/Studiu-Neexecutarea-hot-CEDO-romana-web.pdf;>

constitutional provisions on the independence, sovereignty, territorial integrity and permanent neutrality of Moldova, as well as an infringement of the international law⁹⁰.

The human rights violations cases related to the Russian military presence can be analyzed from at least two perspectives. The first is the direct impact on human rights, i.e. the situations when Russian agents are offenders themselves. The second perspective concerns the control over certain persons or groups of persons, who violate the human rights. Both situations have been confirmed and persist in the Transnistrian region of Moldova.

Having analyzed the human rights violations from the first perspective, it can be underlined that, over the years, the lack of violations committed by Russian soldiers, “to whom the peace in the region is due” has been promoted as an idea by local ideology and propaganda⁹¹. Consequently, it is nearly impossible to find any particulars in open local sources on trespassing by Russian soldiers.

Contrary to this perfect image imposed in the region, there are a number of findings by the ECHR highlighting a systemic problem of Russian army stationing on the Moldovan territory. Two ECHR judgments, issued at a distance of 12 years, highlight serious violations of human rights by the Russian soldiers, also stating the failure to investigate them.

The first judgement stating the violation of human rights by the Russian Federation for the actions of military in the Transnistrian region was issued in the case of *Ilaşcu and others v. Moldova and Russia*. It is the first judgement to establish de facto jurisdiction of Russia⁹² on the one hand, and the direct participation of Russian soldiers in retaining, detention and transmission of complainants to the illegal region structures on the other hand, as well as the subsequent torture and

ill-treatment. Thus, on June 2, 3 and 4, 1992, a number of people (some of them wearing Russian army uniforms, others wearing unmarked camouflage uniforms) detained 4 persons at their residence in Tiraspol. After a few days, three of the complainants were taken separately to the Russian Army command (komendatura) in Tiraspol, in vehicles with Russian identification signs.

During their detention on the Russian army territory, they were tortured by the army staff. In particular, one of the complainants was subjected to simulated executions four times: the first time he was sentenced to death, while in the other cases he was taken eyes closed, on a field where the guards were shooting blind bullets weapon in his direction until he got unconscious. Another complainant was threatened with rape. At the end of a month, as a result of the hits, another complainant was hospitalized in a psychiatric facility for a month⁹³. In this case, the ECHR acknowledged Russia’s responsibility under the infringement of art. 3, 5, 8 and 34 of the Convention and ordered that by virtue of military, political and economic control, Russia has jurisdiction over the territory on the left bank of the Dniester, jointly with Moldova.

Another case examined by the ECHR concerns the murder of a young man on January 1, 2012 (*Pisari v. Moldova and Russia*). Thus, a Russian soldier from the peacekeeping contingent opened the fire towards the back of the car, which would not have stopped at the “Stop” sign. Although there was no impending risk to the peacekeeper or soldier position, the latter’s actions led to the young man’s death.

In this case the ECHR considered the risk degree resulting from the use of a fire gun for the life of the two persons in the vehicle and for the Russian soldier from the control point. Having analyzed the danger of non-complying with the traffic rules and the urgent need to stop, as well as the alternative means to stop the car without by lethal force, the ECHR was not convinced that killing the

⁹⁰ See paragraph 108, a decision of the Constitutional Court of the RM no. 14/2017;

⁹¹ <https://novostipmr.com/ru/news/15-07-01/nina-shtanski-russkiy-soldat-by-l-i-ostaetsya-simvolom-mira>;

⁹² See paragraph 384, Judgement *Ilaşcu v. Moldova and Russia*;

⁹³ See paragraphs 188 – 200 Judgement *Ilaşcu v. Moldova and Russia*;

complainant (Vadim Pisari) required the force, which wasn't more than absolutely necessary for a legal detention. Consequently, the Court found a material violation of Article 2 of the Convention⁹⁴. Moreover, the ECHR hereby found the procedural infringement of article 2 of the Convention, considering the absence of an effective investigation following this tragic incident.

These two cases brought to the attention of the ECHR reveal a number of issues regarding the management of situations in which Russian Federation armed forces and agents located in the Republic of Moldova are involved. The first case involves the participation of the Russian army representatives in the establishment of the separatist illegal structures. Joint retaining, detention and torture of persons during military conflict are revealed, supporting the allegations of collaboration between Russian and separatist military forces. The second case highlight the actions of the military participating in the peacekeeping mission.

On May 16, 2019 the ECHR notified the case of *Manole and Postica v. Moldova and Russia* to the defendant governments. The case concerns the retaining of two Promo-LEX Association members at the "peacekeeping post" on July 19, 2005 on the grounds that they would have taken pictures of an advertising billboard near the point no. 9. A Russian officer, leader of the military group, order the discarding of the camera film. Nevertheless, the Promo-LEX members asked him to draft the procedural documents, the officer became very aggressive, violent, threatening the retained persons and calling for the presence of his superiors. Even after the arrival of several representatives of the constitutional structures, the Russian military continued to show inappropriate and aggressive behavior towards the peaceful people present on the spot. At one point, without any reason and without cautioning the people and the police on the spot, the Russian soldier fired two automatic gun bursts (AK47). Before the

⁹⁴ See paragraph 58, *Pisari v. Moldova and Russia*, Judgment as of 21.04.2015, no. 42139/12;

Court, the complainants invoked the violation of their rights, being in the custody of the peacekeeping soldiers⁹⁵. The aforementioned two cases address the quality of the effective investigation of possible abuses committed by the Russian army agents, in fact being about the lack of any investigation tool for such abuses committed by the armed Russian soldiers towards civilians.

Having analyzed the actions of the Russian army in the region, it can be certainty declared that it has contributed decisively and fully to the establishment, equipment and functioning of an "unconventional army" formally subordinated to an unrecognized administration. However, in reality, it is clear that these troops act as a branch of the Russian military forces in the Republic of Moldova. More recently, the Transnistrian army already benefits openly from the logistic and informational support of the Russian army.

Proceeding from the need of an analysis on the violation of human rights in the Transnistrian army, initially it we will revise the information collected from the local human rights institutions. The report of the "human rights commissioner" in the region states no violations in the alleged Transnistrian armed forces⁹⁶. On the other hand, Moldovan Ombudsman mentioned in his report that the most frequently the population from the region refer problems related to "the forced enrollment of young people or the pursuit (practically hunting) of young people who have "escaped" from military service"⁹⁷.

The ECHR findings support the assertion that in the so-called Transnistrian army there are cases of torture and inhuman treatment, as well as doubtful deaths. For example, in the case of *Stomatii v. Moldova*

⁹⁵ <https://promolex.md/14979-retinerea-persoanelor-la-postul-de-pacificare-de-pe-nistru-in-atentia-ctedo/?lang=ro>

⁹⁶ <http://www.ombudsmanpmr.org/p0595.htm>;

⁹⁷ See page 73, report https://ombudsman.md/wp-content/uploads/2019/03/RAPORT_2018-1.pdf;

and *Russia*⁹⁸, the Russian Federation was found accountable for violating the right to life of a young man killed in 2010 in one of the military units of the region. The ECHR found the violation of the right to life (art. 2 of the ECHR) both materially and for the lack of an effective investigation into the murder of the forcibly enrolled young man in the Transnistrian paramilitary structures. In the case of *Kolobychko v. Moldova and Russia*⁹⁹, the ECHR found the procedural violation of the right to life as a result of the lack of effective investigation into the death of a young man forcibly enrolled in the Transnistrian military units, found dead in the Dniester river shortly after enrollment. In the case of *Samatov v. Moldova and Russia*¹⁰⁰ the Court found the violation of the right not to be subjected to torture as a result of detaining in inhuman and degrading conditions of a young man forcibly enrolled in the alleged Transnistrian army after previously being convicted by local courts for leaving repeatedly the Transnistrian military unit.

A second perspective in which the Russian army participates as an institution contributing to the violation of human rights, is its involvement as a guarantor of the impunity of a structure established outside of the constitutional or international control. The submission or non-compliance of the regime concerning a certain entity also involves the component on the responsibility. Therefore, the state or institution ensuring the activity of a structure, which systemically violates the human rights, should take responsibility for the trespasses committed by it.

The first impact judgment and reference is the case of *Ilascu and others v. Moldova and Russia*. The Russian military presence was examined from the perspective of the decisive control of the Russian Federation but also the influence of the Russian state on the secessionist administration. It was found that the Russian army is a key element in

assuming the jurisdiction over the territory of the Transnistrian region by Russia. The court found other elements determining the responsibility of the Russian Federation, namely the economic and political control. The judgment *Ilascu and others v. Moldova and Russia* stated that these circumstances determine Russia's responsibility for the illegal actions committed by the Transnistrian separatists. The Court concluded that the Russian state through its army and political support contributed to the establishment of a separatist regime on the sovereign territory of the Republic of Moldova¹⁰¹. This finding has passed as a red thread through the ECHR jurisprudence on Transnistrian causes so far. Every time the Court blames the Russian state for violating the human rights as an expression of having control over the regime admitting the human rights violations in the region.

Following the issuance of the judgment on the *Ilascu* case, Russia was repeatedly convicted for violating human rights in the Transnistrian region. In the case of *Ivanțoc et al.* the Court analyzed whether Russia's policy of supporting the "MRT" changed between 2004 and 2007, finding that: "... the Russian Federation continued a close relationship with the "MRT" administration, providing political, financial and economic support to the separatist regime. In addition, the Court stressed that the Russian army (troops, equipment and ammunition) continued to illegally station on the territory of the Republic of Moldova against international commitments. Thus, the Russian Federation did nothing to prevent the violations of the applicants rights after 08.07.2004, committed by the agents thereof¹⁰².

In the case *Catan and others v. Moldova and Russia*, the Court stated the violation of the right to education for 170 complainants, as a result of the ban on studying in the mother tongue, as well as the closure of the

⁹⁸ See Judgement *Stomatii v. Moldova and Russia*, no. 69528/10, from 18.09.2018;

⁹⁹ See Judgement *Kolobychko v. Moldova and Russia*, case no.36724/10 from 18.09.2018;

¹⁰⁰ See Judgement *Dobrovițkaia and others v. Moldova and Russia*;

¹⁰¹ See paragraph 382 Judgement *Ilascu and others v. Moldova and Russia*;

¹⁰² See paragraph 106, Judgement *Ivanțoc et al. v. Moldova and Russia*, case no. 23687/05

educational institutions under the Ministry of Education of the Republic of Moldova between 2002 and 2004. The court concluded that the Russian Federation did not convince that the previous conclusions regarding the role of the Russian army in the process of supporting the secessionist regime jointly with the economic and political support represent a critical factor in the control over the secessionist regime¹⁰³. Correspondingly, the violation of the right to education was recognized as a result of the same actions in relation to other educational institutions, findings stated in 2018 in case of *Bobeico and others v. Moldova and Russia*¹⁰⁴.

The violation of the right not to be subjected to torture, freedom and security of person, right to conscience and family life were found in the case of *Mozer v. Moldova and Russia*. The Court continued its conclusions regarding the control and influence of Russia over the secessionist administration during November 2008 - July 2010. Similar violations were found in the cases: *Soyma v. Moldova, Russia and Ukraine*, the application no. 1203/05, the Judgement of May 30, 2017; *Vardanean v. Moldova and Russia*, the application no. 22200/10, the Judgement of May 30, 2017; *Apcov v. Moldova and Russia*, the application no. 13463/07, the Judgement of May 30, 2017; *Braga v. Moldova and Russia*, the application no. 76957/01; *Draci v. Moldova and Russia*, the application no. 5349/02, the Judgement of 17.10.2017; *Mangîr and others v Moldova and Russia*, the application no. 50157/06, the Judgement of 17.07.2018, etc.

Therewith, there have been a series of violations of the right to property committed by the secessionist administration as a result of limiting the right to freedom of movement and the seizure of transport means. Thus, the ECHR applied the same approach to making the Russian Federation accountant as a result of maintaining its armed forces on the

territory of the Republic of Moldova. The ECHR found that the internal regulations of the secessionist regime as to the entry and exit of vehicles on the territory of the region are not compliant with the Article 1 Additional Protocol to the Convention, in the cases of *Turturica and Casian v. Moldova and Russia*, the applications no. 28648/06 and 18832/07, the Judgement of 30.08.2016, as well as in *Pădureț v. Moldova and Russia*, application no. 26626/11, the Judgement of 09.05.2017. Another case highlighting the abusive actions of seizing the land owned by more than 1600 people from Dubăsari was examined in the case *Sandu and others v. Moldova and Russia*, the applications no. 21034/05 and 7 others, the Judgement of 17.07.2018. Until October 1, 2019, the ECHR issued more than 28 judgments in over 56 Transnistrian cases against the Russian Federation, and the sum of claims awarded by the Court exceeds 5.5 million Euro.

These violations are not directly attributed to the Russian army, illegally stationing on the territory of the Republic of Moldova, however the military factor represents at least a significant element of the three contributing to human rights violations, hampering the efficient investigation of the violations committed in the Transnistrian region. However, as the ECHR also mentioned, the illegal presence of the Russian army on the territory of the Republic represents a support of an administration deliberately violating the human rights, and in the absence of an opportunity to influence the state of play in the field of human rights, Russia is entirely responsible for the violations, as a subject of the international law

¹⁰³ See paragraph 121 Judgement *Catan et al v. Moldova and Russia*;

¹⁰⁴ See judgement *Bobeico and others v Moldova and Russia*, case no. 30003/04, from 23.10.2018;

Russian Military Presence in Ukraine and its Impact on Human Rights Situation

Historical and political background of the presence of the Russian Black Sea Fleet on the territory of Ukraine

After the collapse of the Soviet Union in 1991, the newly founded independent states faced the issue of division of the USSR Armed Forces, including the land and naval military bases. On 30 December 1991, in Minsk, the leaders of the post-Soviet independent countries agreed that they would establish their own military forces on the basis of units of the former USSR Armed Forces that were stationed on the territory of the respective countries, with the exception of “strategic” (nuclear) forces that should have remained under the unified command of the Commonwealth of Independent States (CIS) – a regional intergovernmental organisation founded by the former USSR republics.

In accordance with this logic, Ukraine should have inherited those units of the Soviet Black Sea Fleet that were deployed on the territory of Ukraine, including in the Crimean Peninsula with the major naval basis in the city of Sevastopol. On 5 April 1992, the president of Ukraine, Leonid Kravchuk, issued the Decree On the transfer of the Black Sea Fleet under administrative subordination of the Ministry of Defence of Ukraine. But Moscow strived to preserve control over the Black Sea Fleet, and just in two days after Kravchuk’s Decree, on 7 April 1992, Russian president Boris Yeltsin, issued the Decree On the transition of the Black Sea Fleet under the jurisdiction of the Russian Federation.¹⁰⁵

Some of the Black Sea Fleet officers and warships’ crews began to take an oath of allegiance to Ukraine, while some others – to Russia; the general atmosphere of relations in the fleet deteriorated. To avoid possible confrontation, Ukrainian and Russian

presidents cancelled the abovementioned decrees, and at the meeting on 23 June 1992, they agreed to avoid unilateral steps and to hold negotiations on the issue of the post-Soviet Black Sea Fleet heritage.¹⁰⁶ On 3 August 1992, the presidents signed Agreement between Ukraine and the Russian Federation on the principles of formation of the Naval Forces of Ukraine and the Naval Fleet of Russia on the basis of the Black Sea Fleet of the former USSR. It was agreed that the former USSR Black Sea Fleet to be divided between Ukraine and Russia (Article 1); during the following three years of “transitional period”, the Fleet to be governed by Joint Command “appointed upon a consensus” of Ukrainian and Russian presidents (Articles 2, 3 and 4), the Fleet personnel to consist of Ukrainian and Russian conscripts in equal proportions (50% by 50%) who take oath to the state of their respective citizenship (Articles 5 and 6); during the transition period, Ukraine and Russia to jointly use the existing system of naval basing and logistical support (Article 8).¹⁰⁷

On 17 June 1993, presidents of Ukraine and Russia signed the Agreement on urgent measures for the formation of the Naval Forces of Ukraine and the Naval Fleet of Russia on the basis of the Black Sea Fleet. It was envisaged that the Fleet to be divided in equal proportions (50% by 50%) between Ukraine and Russia (Article 2); the bilateral Interstate Commission to be established for negotiating the practical issues of division of the Fleet and conditions for basing of the Naval Forces of Ukraine and the Naval Fleet of Russia (Article 4).¹⁰⁸

In practice, the “Joint Command” of the Black Sea Fleet followed instructions only from Moscow. Without consultations with Kyiv, some modern warships and equipment were redeployed to the other fleets that were under the sole Moscow control (e.g., one of the most modern and valuable Soviet warships, the aircraft carrier Admiral

¹⁰⁵ <https://old.flot2017.com/file/show/none/4587>

¹⁰⁶ https://zakon.rada.gov.ua/laws/show/en/643_018

¹⁰⁷ https://zakon.rada.gov.ua/laws/show/en/643_020

¹⁰⁸ https://zakon.rada.gov.ua/laws/show/en/643_046

Kuznetsov was redeployed from the Black Sea Fleet to the Russian Northern Fleet). Warships with Ukrainian crews were often deprived of possibility to use the navigation and hydrographic equipment of the Black Sea Fleet,¹⁰⁹ the conscripts of Ukrainian citizenship were put under moral pressure by Russian officers and often unjustly dismissed from service.¹¹⁰

Ukraine-Russia negotiations on fleet took place against the backdrop of constant Moscow's political and economic pressure on Kyiv, Russia's attempts to gain full control over the whole post-Soviet Black Sea Fleet and simultaneous support of the pro-Russian separatist in the Crimea aiming at separation this Autonomous Republic from Ukraine and its unification with Russia. Thus, on 21 May 1992, the Russian parliament (Supreme Council) passed Resolution on the legal assessment of decisions of the highest state authorities of the RSFSR to change the status of the Crimea adopted in 1954. The decisions of 1954 on transferring the Crimea from the Russian SFSR to the Ukrainian SSR was declared as legally invalid.¹¹¹ On 9 July 1993, the Russian parliament also passed Resolution on the status of the city of Sevastopol, declaring the "Russian federal status of the city of Sevastopol".¹¹² On 5 December 1996, the upper house of the Russian parliament (Federation Council) adopted Statement on the status of the city of Sevastopol, calling Ukraine to negotiate on the "Russian status of the city of Sevastopol".¹¹³ There were also many other similar declarations and statements of the Russian state bodies and officials. Russian officers of the Black Sea Fleet participated in separatist activities in the Crimea, especially in the city of Sevastopol, e.g. the premises of the Black Sea Fleet headquarters were provided for separatist meetings; Russian

fleet officers openly supported separatist "president" of the Crimea Yuriy Meshkov.¹¹⁴

Russia linked negotiations on fleet to the issues of oil and gas supplies to Ukraine and often threatened to cut off such supplies.¹¹⁵ Moscow also linked settlement of the fleet issues to the signing of the bilateral Treaty on Friendship, Cooperation, and Partnership between Ukraine and the Russian Federation. (This treaty, finally signed on 31 May 1997, three days after signing the agreements on division of the Black Sea Fleet and conditions for Russian Fleet staying on the territory of Ukraine, was important for Kyiv because it provided that both countries "respect the territorial integrity of each other and confirm the inviolability of the existing borders between them", and build their bilateral relations on principles of "non-use of force or threat of force, including economic and other means of pressure, the right of peoples to freely dispose of their destiny, non-interference in internal affairs".¹¹⁶)

Long and difficult negotiations resulted in Ukraine-Russia Agreement on the Black Sea Fleet, signed on 9 June 1995, in Sochi, by presidents Leonid Kuchma and Boris Yeltsin. According to this agreement, the property of the Black Sea Fleet to be divided in equal proportions 50% by 50% (Article 3), but Ukraine to receive only 18.3% of all ships and vessels of the post-Soviet Black Sea Fleet while Russia to receive 81.7% (Article 4); the main base of the Russian Black Sea Fleet with its headquarters to remain in the city of Sevastopol (Article 2); the Mixed Ukrainian-Russian State Commission had to develop the specific parameters of division of the Fleet's objects (Article 11).¹¹⁷

The terms of the abovementioned Sochi agreement shaped the basis for three major Ukraine-Russia agreements, finally signed

¹⁰⁹ <http://www.hai-nyzhnyk.in.ua/doc/2017doc.krym-chornom-flot.php> ; <http://bintel.com.ua/uk/article/kak-delilsja-+chernomorskij-flot-po-bratski/>

¹¹⁰ <https://tyzhden.ua/Publication/3799> ; <http://bintel.com.ua/uk/article/krym-94-2/>

¹¹¹ <http://zakon.7law.info/base51/part1/d51ru1212.htm>

¹¹² <https://www.crimea.kp.ru/daily/26205/3091201/>

¹¹³ <http://sevkrimrus.narod.ru/ZAKON/1996-405.htm#1>

¹¹⁴ <http://bintel.com.ua/uk/article/kak-delilsja-+chernomorskij-flot-po-bratski/> ; <http://bintel.com.ua/uk/article/krym-94-chast%27-5-pochti-vojna/>

¹¹⁵ <http://bintel.com.ua/uk/article/kak-delilsja-+chernomorskij-flot-po-bratski/> ; <http://bintel.com.ua/uk/article/krym-6-na-pike-obshheflotskogo-psihoza/>

¹¹⁶ https://zakon.rada.gov.ua/laws/show/643_006

¹¹⁷ https://zakon.rada.gov.ua/laws/show/643_082

on 28 May 1997, in Kyiv, namely:

- 1) Agreement on the status and conditions of presence of the Russian Federation Black Sea Fleet on the territory of Ukraine,¹¹⁸
- 2) Agreement on the parameters of division of the Black Sea Fleet,¹¹⁹
- 3) Agreement on the mutual payments related to division of the Black Sea Fleet and presence of the Russian Federation Black Sea Fleet on the territory of Ukraine.¹²⁰

In particular, the agreements set the strength of the Russian Black Sea Fleet deployed in the Crimea, specified the places, land plots and objects of infrastructure to be used by Russian Fleet, as well as basic conditions for such deployment and usage. The agreements also outlined the contours for settlement of legal issues related to the presence of the Russian naval base in Ukraine, issues related to human rights, social security, environmental protection, etc. Agreements were concluded for 20 years, with possibility of further prolongation for the further five-year periods.

In order to guarantee the temporal status of the Russian Fleet's deploying in the Crimea, the Constitution of Ukraine, adopted on 28 June 1996, stated that "location of foreign military bases shall not be permitted on the territory of Ukraine" (Article 17). Transitional Provisions of the Constitutions envisaged that "the use of existing military bases on the territory of Ukraine for the temporary stationing of foreign military formations is possible on the terms of lease, by the procedure determined by the international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine" (Paragraph 14 of the Transitional Provisions).¹²¹

It should be noted that the assessment of value of the Black Sea Fleet warships and infrastructure objects was carried out in 1995-1996 by the Ukrainian-Russian commission under the conditions of constant pressure of Moscow that was threatening to cut off oil and gas supplies to Ukraine. Due

to that pressure, Kyiv had nothing but to abandon its initial intention to calculate the costs of lease of 18,232.62 hectares of land and 4,591 buildings in accordance with the international practice,¹²² and to agree on dozens of times less lease cost of \$97.75 million annually (counted as repayment of a part of the Ukrainian state debt before Russia).¹²³

In 2007-2009, Kyiv attempted to address the issues of proper inventory of the land plots and infrastructure objects in the Crimea leased by the Russian Black Sea Fleet, but Moscow disagreed to negotiate on these issues. Moscow also ignored Kyiv's protests against usage of the Russian Black Sea Fleet warships in the Russian-Georgian war of 2008, as well as Kyiv's demands to withdraw the Russian FSB agents from the Crimea.¹²⁴ During the presidency of Victor Yushchenko, the Ukrainian government declared that the agreements of 1997 would not be extended and the Russian Black Sea Fleet would have to withdraw from the territory of Ukraine after 2017.¹²⁵

Just in two months after Viktor Yanukovich became president of Ukraine, he signed with his Russian counterpart Dmitry Medvedev the Agreement on the issues of the Black Sea Fleet's presence on the territory of Ukraine. The agreement, signed on 21 April 2010, in Kharkiv, extended three Ukraine-Russia agreements on fleet of 1997 for the next 25 years beyond 2017 (until 2042) with possibility of further renewals for the five-year periods (Article 1). The annual rent for the Russian Black Sea Fleet staying on the territory of Ukraine was defined as \$100 million plus a gas price discount at \$100 per each thousand cubic meters when gas price is \$333 and higher, or 30% discount when gas price is lower than \$333 (Article 2).¹²⁶

¹¹⁸ https://zakon.rada.gov.ua/laws/show/643_076

¹¹⁹ https://zakon.rada.gov.ua/laws/show/643_075 ;
http://search.ligazakon.ua/l_doc2.nsf/link1/MU97259.html

¹²⁰ https://zakon.rada.gov.ua/laws/show/643_077

¹²¹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2003\)086-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2003)086-e)

¹²² <http://www.golos.com.ua/article/219601> ;

<https://www.pravda.com.ua/articles/2005/08/15/3012439/>

¹²³ https://zakon.rada.gov.ua/laws/show/643_077

¹²⁴ <https://www.unian.info/society/234108-russia-says-fsb-to-stay-in-crimea.html>

¹²⁵ <https://www.unian.info/society/148224-no-russian-fleet-in-ukraine-beyond-2017-ukrainian-pm.html>

¹²⁶ https://zakon.rada.gov.ua/laws/show/643_359

Many legal and practical issues of the presence of the Russian Black Sea Fleet and related militaries and equipment on the territory of Ukraine (such as movements of the Russian military units outside their deployment sites, taxation and customs clearance of the imported materials and technical equipment, registration of residence places of the Russian military personnel and civilians etc.) have never been clearly settled due to Moscow's constant delaying and blocking of the corresponding negotiations. Ukraine's attempts to settle these issues failed both during the Viktor Yushchenko presidency (2005-2010) as well as during the rule of his pro-Russian successor Viktor Yanukovich (2010-2014).

Only on 17 December 2013, in the midst of Euromaidan protests in Ukraine, the Russian-Ukrainian Interstate Commission headed by Viktor Yanukovich and Vladimir Putin decided to instruct the Governments of both countries "to accelerate the inventory work on the land plots and real estate objects located on them, used by the Black Sea Fleet of the Russian Federation on the territory of Ukraine" (Point 21), "to complete the preparation for signing of the draft intergovernmental agreements: on the coordination of movements related to the activities of the military units of the Black Sea Fleet of the Russian Federation on the territory of Ukraine, outside their deployment sites; on the procedure for crossing the state border of Ukraine by warships, support vessels, aircraft, and military personnel of the Black Sea Fleet of the Russian Federation; on registration at the place of residence (stay) of military personnel and civilians of the Black Sea Fleet of the Russian Federation and their family members in the migration authorities of Ukraine" (Point 22); "to regulate the taxation of the structural units of the Black Sea Fleet of the Russian Federation and the customs clearance of materials and technical equipment imported in the interests of the Fleet into the territory of Ukraine" (Point

23), etc.¹²⁷ But this work has never been implemented.

In February-March 2014, taking advantage of the temporal vacuum of power in Ukraine due to escape from the country of then-president Viktor Yanukovich, Russian militaries, mainly from the Black Sea Fleet forces, occupied the Crimea and the city of Sevastopol and captured all the Ukrainian naval infrastructure in the peninsular and 54 out of 67 Ukrainian naval ships.¹²⁸ On 18-21 March 2014, the Russian Federation annexed the Crimea. On 31 March 2014, upon the proposal of president Vladimir Putin, the Russian parliament (State Duma) denounced all treaties and agreements with Ukraine on the Black Sea Fleet.¹²⁹ On 22 November 2018, the Ukrainian parliament amended the Constitution of Ukraine deleting the Paragraph 14 of the Transitional Provisions which envisaged the possibility for the stationing of foreign military bases on the territory of Ukraine.¹³⁰

Analysis of legal provisions regulating Russian (foreign) military presence in Ukraine through the lens of human rights protection

Basic bilateral agreements between Ukraine and the Russian Federation regulating the issue of Russian military presence on the territory of Ukraine, particularly in the Autonomous Republic of Crimea, were mentioned in the previous part of the report. Majority of these documents related to the status and conditions of the Black Sea Fleet of the Russian Federation. For a more complete picture, it is also advisable to consider other documents regulating the presence of any foreign troops on the territory of Ukraine.

An approach we use in this analysis is predominantly retrospective on its nature, since most of the mentioned bilateral documents and agreements ceased to exist after the illegal annexation of the Crimean

¹²⁷ <http://kremlin.ru/supplement/1585>

¹²⁸ <http://tass.com/russia/724901>

¹²⁹ <http://tass.com/russia/725964>

¹³⁰ <https://zakon.rada.gov.ua/laws/show/2680-19#n13>

Peninsula by Russia and its aggression in the East of Ukraine.

Nevertheless, the research methodology goes beyond the simple content analysis of partly abandoned legal norms against agreed oversight's benchmarks on human rights violations. This methodology is based on more general concept aimed to reveal the Russian strategic approach for using all available hybrid mechanisms to strengthen its influence on neighbouring states, including the use of law as a kind of hybrid warfare against the post-Soviet independent countries.

Generally, the basic agreements on division of the Black Sea Fleet were prepared in a hurry and under political pressure from Moscow, the professional qualifications of some members of the Ukrainian delegation were not meeting current requirements, and the Russians used this situation with might and main.¹³¹

Among principal objectives to achieve by the Russian Federation upon signing these documents were the future annexation/occupation of the Crimean Peninsula and the city of Sevastopol, as well as executing political and military pressure on the Ukrainian Government.

The following characteristics could be applied to explain the way of the Russian Federation concluded/implemented abovementioned agreements in hybrid lawfare manner in various domains influencing human rights and human security as such, namely:¹³²

– Legal Theory domain: claiming Russia's status as the USSR legal successor when beneficial; asserting Russia's right to "spheres of interests" and state sovereignty over crucial objects; using historical narratives to legalize its aggressive behaviour; expropriating foreign assets to compensate the lack of own ones and counteracting the property rights restoration by Ukraine; domination of the Russian

legislation over the Ukrainian one; free interpretation of the agreed measures; fake accusations of Ukrainian counterparts;

– Customary International Law domain: emphasizing the fluidity of international law over peremptory legal norms; asserting Russian cultural value over individual rights; asserting right to military exercises on Ukrainian territory;

– Humanitarian Law domain: asserting the Russian Federation's "responsibility to protect" approach; promoting Russian citizenship in Ukraine and thus creating new ethnic realities; claiming oppression and violation of minority rights; targeting civilian to trigger humanitarian and other crises;

– Law of Armed Conflict domain: exploiting Russian fears of "encirclement by NATO";

– International Treaties domain: using zero-sum game culture while negotiating; exploiting legal loopholes to claim non-performance of Ukraine; using the Russian Federation's payments to Ukrainian citizens within the Russian Federation's orbits;

– Maritime Law domain: exploiting historical narrative to assert warm ports assets; portraying Azov and Black Seas as "Russian seas"; impeding maritime traffic to Ukrainian ports, etc;

The issue of human rights protection in these treaties should be considered in the broad context of using the basic human security approach, since there is no clear reference to human rights protection in these treaties as it should be legally defined in line with world best practices.¹³³ Generally, provisions for using a kind of monitoring/oversight mechanisms were incorporated in all basic bilateral agreements, but they were rather blurred. Thus, it confirms ones again that legal uncertainty was always in favour of the Russian side to serve as a basic precondition for the application of hybrid lawfare.

For the purpose of convenience, we elaborated the table to indicate basic documents that ensure control/oversight mechanisms related to human rights violations by foreign troops deployed in Ukraine (please, see Annex A). General provisions for executing control measures

¹³¹<https://www.pravda.com.ua/articles/2005/09/7/3013078/>
¹³² <https://geostrategy.org.ua/images/3.ppt>

¹³³ <http://eesri.org/2017/08/human-security-worlds-practices-and-ukraines-perspective/>

were envisaged in three basic Agreements regulating the presence of the Russian Black Sea Fleet in Ukraine, namely: Agreement on urgent measures for the formation of the Naval Forces of Ukraine and the Naval Fleet of the Russian Federation on the basis of the Black Sea Fleet (1993)¹³⁴; Agreement on the Black Sea Fleet (1995)¹³⁵; and Agreement on the status and conditions of presence of the Russian Federation Black Sea Fleet on the territory of Ukraine (1997)¹³⁶.

In order to solve the practical issues of the Black Sea Fleet distribution and to develop conditions for stationing the Naval Forces of Ukraine and the Naval Fleet of the Russian Federation, according to the provisions of the Agreement on urgent measures for the formation of the Naval Forces of Ukraine and the Naval Fleet of the Russian Federation on the basis of the Black Sea Fleet, the Interstate Commission was created with equal number of representatives and experts from Ukraine and the Russian Federation. The personal composition of the Ukrainian and Russian parts of the Commission and its Regulations were subject to approval respectively by the President of Ukraine and the President of the Russian Federation, who were in charge of its work (Article 4).¹³⁷

Later in 1995, the Russian-Ukrainian Joint Commission consisting of the state delegations of the Russian Federation and Ukraine at the talks on the Black Sea Fleet was created to monitor the fulfilment of the accords on the Black Sea Fleet, as it was stated in the Agreement on the Black Sea Fleet (Article 11).¹³⁸

In the Agreement on the status and conditions of presence of the Russian Federation Black Sea Fleet on the territory of Ukraine, the creation of the Russian-Ukrainian Joint Commission was repeated once again to resolve disputes concerning the interpretation and application of this agreement. If the Joint Commission was unable to resolve submitted dispute, it

should be resolved through diplomatic channels as soon as possible (Article 24).¹³⁹

Hence, the main monitoring body to control the activities of the Russian Federation Black Sea Fleet activities on the territory of Ukraine, including on human rights issues, was the Russian-Ukrainian Joint Commission with direct supervision by the President of Ukraine and the President of the Russian Federation. Control functions over the activities of the Russian military units were also to be carried out by the competent authorities of Ukraine (Article 8).¹⁴⁰ However, the term “competent authorities of Ukraine” was not explicitly defined in the agreement creating a loophole for Russian side to voluntary interpret some provisions in its favour.

Based on the available evidences, the Russian-Ukrainian Joint Commission was an ineffective institution where the Russian Federation artificially delayed the process of considering any controversial issues.¹⁴¹

Regarding the jurisdiction and investigation of human rights violations, these provisions were not mentioned directly, but formally fell within the agreed mechanisms contained in the basic Agreement and provided for the jurisdiction of both Parties, with the hidden domination of the Russian one.

So, the Russian military units were obligated to carry out their activities in places of deployment in accordance with the legislation of the Russian Federation, while respecting sovereignty of Ukraine and adhering to its legislation without any interference in the internal affairs of Ukraine (Article 6). Military units at their places of deployment and during redeployment could take protective and security measures in accordance with the procedure established in the Armed Forces of the Russian Federation, in co-operation with the competent authorities of Ukraine (Article 8). Movements related to the activities of military formations outside the places of their deployment should be carried out with

¹³⁴ https://zakon.rada.gov.ua/laws/show/en/643_046

¹³⁵ https://zakon.rada.gov.ua/laws/show/643_082

¹³⁶ https://zakon.rada.gov.ua/laws/show/643_076

¹³⁷ https://zakon.rada.gov.ua/laws/show/en/643_046

¹³⁸ https://zakon.rada.gov.ua/laws/show/643_082

¹³⁹ https://zakon.rada.gov.ua/laws/show/643_076

¹⁴⁰ https://zakon.rada.gov.ua/laws/show/643_076

¹⁴¹

<https://www.pravda.com.ua/articles/2005/09/7/3013078/>

consent of the competent authorities of Ukraine (Article 15).¹⁴²

Issues of jurisdiction related to the presence of military formations on the territory of Ukraine were regulated as follows (Article 19):¹⁴³

1. In cases of crimes committed by persons from military formations or members of their families on the territory of Ukraine, the laws of Ukraine should be applied and the courts, the prosecutor's office and other competent authorities of Ukraine should operate.

2. The laws of the Russian Federation should be applied and the courts, the prosecutor's office and other competent bodies of the Russian Federation should operate:

a) in the case of crimes committed against the Russian Federation by persons from military formations or members of their families, who are citizens of the Russian Federation, as well as crimes committed against persons from military formations or members of their families, who are citizens of the Russian Federation;

b) in the case of committing crimes by persons from military formations being on official duties at places of deployment of military formations.

3. The competent authorities of Ukraine and the Russian Federation might apply to each other with a request for the transfer or acceptance of jurisdiction over individual cases.

Despite the detailed mechanism for executing jurisdiction and conducting investigations of violations and the agreed monitoring process, the effectiveness of their practical implementation was very low. In practice, the Russian side acted at its own discretion, bypassing the agreed framework of jurisdiction. There were no negotiations at the intergovernmental level within the framework of the Russian-Ukrainian Joint Commission due to the reluctance and delay of the Russian side.

Given the significant quantitative indicators of the Russian military presence in the Crimea (before its illegal annexation by the Russian Federation), including in the city of Sevastopol (150 military objects) and beyond (another 53 objects), the number of violations by the Russian side related to the fundamental rights and freedoms of Ukrainian citizens on the peninsula was also significant. Regardless of this, the command of the Black Sea Fleet of the Russian Federation under any pretexts refused to provide the Ukrainian side with the opportunity to control the fleet activities, including in the framework of the implementation of political-military commitments undertaken by the Parties under the auspices of the OSCE.¹⁴⁴

One of the most sensitive was the issue of illegal use by the Russian Black Sea Fleet of existing Ukrainian objects of navigation and hydrographic support, around which the main disputes took place with the participation of Ukrainian civil activists. Without coordination with Ukrainian counterparts, the Russian side took active measures to strengthen the protection of arbitrary used objects of navigation and hydrographic support, groundlessly referring to the legislation of the Armed Forces of Russian Federation. Such actions posed a direct threat to the lives of protesters – Ukrainian activists, who did not realize that they could be shot while attempting to infiltrate the navigation object located on Ukrainian territory and arbitrarily occupied by the troops of the Russian Federation.¹⁴⁵

The regular deployment of marine units and their landing on the sovereign territory of Ukraine took place outside any contractual framework, not to mention the facts of the use of the forces of the Russian Black Sea Fleet against a third country while they were formally stationing in Ukraine (operations in Chechnya, Georgia, the former Yugoslavia).¹⁴⁶

As a part of comprehensive approach to the monitoring process, it is also worth

¹⁴⁴ https://zn.ua/ARCHIVE/nu_i_namayachili.html

¹⁴⁵ <https://tyzhden.ua/News/29072>

¹⁴⁶

<https://www.pravda.com.ua/articles/2005/09/7/3013078/>

¹⁴² https://zakon.rada.gov.ua/laws/show/643_076

¹⁴³ https://zakon.rada.gov.ua/laws/show/643_076

mentioning the provisions of the Treaty of Friendship, Cooperation, and Partnership between Ukraine and the Russian Federation. According to the Treaty, in order to protect the rights of its citizens residing on the territory of the other Party, Ukraine and the Russian Federation were obliged to comply with the obligations of the documents of the Organization for Security and Cooperation in Europe (OSCE) and other generally recognized principles and norms of international law, agreements within the Commonwealth of Independent States, they were the Parties to (Article 10).¹⁴⁷

The Office for Democratic Institutions and Human Rights (ODIHR), the Higher Commissioner on National Minorities (HCNM) as well as the OSCE Mission to Ukraine (1994-1999) should be mentioned when making a closer look at the OSCE activities in the Crimean Peninsula. These independent OSCE Institutions and field presence were formally involved in the process of the human rights monitoring on the Crimean Peninsula, including related activities of the Russian Black Sea Fleet. Based on the results, the effectiveness of all these bodies on the ground was rather low, because of the absence of clear mandate, overlapping structures that led to some frictions between them, especially in the initial phase of the work in Crimea. Partly, this was the fault of the Ukrainian side, which did not instruct on a more complete use of the potential of the OSCE (there were no overall concept or strategy for using the OSCE potential), and preferred to move on to a so-called “new form of cooperation” – the OSCE Project Co-ordinator in Ukraine, who started on June 1, 1999.¹⁴⁸

From a formal point of view, the Law of Ukraine on the Procedure for Admission and Conditions of Stay of Units of Armed Forces of Other States on the Territory of Ukraine, dated to February of 2000, should be mentioned. According to the Document, the Cabinet of Ministers of Ukraine, the Council

of Ministers of the Autonomous Republic of Crimea, the Ministry of Defence of Ukraine, other central and local executive authorities and local self-government bodies were defined to control over the activities of units of the armed forces of other States (including the Russian Federation) on the territory of Ukraine (Article 22). In case of a person of military or civilian personnel of a unit of the armed forces of another state is suspected of committing a crime on the territory of Ukraine, the command of the unit should assist the law enforcement agencies of Ukraine in fulfilling their duties regarding carrying out operational-search activities and investigative actions in accordance with the laws of Ukraine (Article 23). The Ministry of Defence of Ukraine should annually submit to the President of Ukraine and the Verkhovna Rada of Ukraine information on the presence of units of armed forces of other countries on the territory of Ukraine (Article 26). All provisions of this Law should be applicable to staying of the Russian Black Sea Fleet in Ukraine as well. But in practice, the Russian side circumvented the provisions of this Law.¹⁴⁹

The annexation of Crimea became the culminating point for which Russia used all possible means, including hybrid warfare reinforced by ineffective mechanisms for monitoring and investigating human rights violations by the Russian militaries. After the illegal annexation of the Crimean peninsula by the Russian Federation and its unleashing aggression in the east of Ukraine, the Ukrainian side, in order to prevent similar scenarios in the future, adopted a series of measures at the legislative level aimed at protecting human rights and freedoms, including on the Ukrainian territories temporarily occupied/controlled by the Russian Federation. In particular, the functions for monitoring the observance of human rights are entrusted to the Cabinet of Ministers of Ukraine and the Ombudsman, as well as emphasis is placed on the use of the potential of international human rights

¹⁴⁷ https://zakon.rada.gov.ua/laws/show/643_006

¹⁴⁸ <https://www.clingendael.org/publication/improving-effectiveness-osce-missions-case-ukraine>

¹⁴⁹ <https://zakon.rada.gov.ua/laws/show/1479-14>

organizations. Two respective laws were adopted, namely the Law of Ukraine on Ensuring Civil Rights and Freedoms, and the Legal Regime on the Temporarily Occupied Territory of Ukraine, dated to April of 2014,¹⁵⁰ and the Law of Ukraine on the peculiarities of State policy on ensuring Ukraine's State sovereignty over temporarily occupied territories in Donetsk and Luhansk regions, dated to January of 2018.¹⁵¹

In addition, the responsibility of the Ministry of Defence and the Ministry of Foreign Affairs of Ukraine was also expanded in the area of monitoring activities of the units of foreign armed forces temporarily deployed on the territory of Ukraine. Particularly, the Ministry of Defence of Ukraine should prepare and submit to the Ministry of Foreign Affairs of Ukraine proposals for the participation of military units, individual servicemen and employees of the Armed Forces in international peacekeeping operations, provision of military assistance to foreign states, sending units of the Armed Forces to other states, admission and conditions of stay of units of armed forces of other States on the territory of Ukraine.¹⁵² The Ministry of Foreign Affairs of Ukraine, in its turn, should exercise general supervision over the implementation of international treaties of Ukraine, including by other parties, ensuring the implementation of rights arising from such treaties for Ukraine, make proposals to the President of Ukraine or the Cabinet of Ministers of Ukraine to take the necessary measures to ensure the implementation of international treaties of Ukraine.¹⁵³

The Civil-Military Cooperation (CIMIC) unit of the Armed Forces of Ukraine is also entrusted with the task of monitoring the socio-political situation in the areas where

the units of the foreign armed forces are located on the territory of Ukraine.¹⁵⁴

Thus, the legal frameworks for monitoring/investigating human rights violations by foreign troops formally were established, but in a more generalized form, which applies to all units of the foreign armed forces temporarily stationed in Ukraine.

At the same time, the low level of practical implementation of basic laws, the lack of a unified strategic approach, incomplete use of the potential of international organizations in the field of human rights protection, lead to a low indicator of the practical use of the legal framework to monitor the situation on the ground and conduct investigations of the revealed violations of human rights and freedoms. All above-mentioned basic bilateral agreements between Ukraine and the Russian Federation regulating the Russian military presence on the territory of Ukraine were used by the Russian Federation as a hybrid lawfare component being an important element of the comprehensive hybrid war against Ukraine and other post-Soviet states.

Impact of the Russian military presence in Ukrainian Crimea on the human rights situation

The presence of the Black Sea Fleet of the Russian Federation on the territory of Ukraine led to numerous violations of human rights, although most of such cases were not properly registered and investigated, due to the weakness of mechanisms of legal regulation, Russia's ignoring of the relevant interstate agreements as well as of Ukrainian legislation and international humanitarian law, and the lack of normal conditions for the work of human rights organizations.

In analysis of the impact of the Russian Black Sea Fleet presence on the human rights situation, it is advisable to distinguish the following three periods:

¹⁵⁰ <https://zakon.rada.gov.ua/laws/annot/en/1207-18>

¹⁵¹ <https://mfa.gov.ua/ua/news-feeds/foreign-offices-news/62541-on-the-law-of-ukraine-on-the-peculiarities-of-state-policy-on-ensuring-ukraines-state-sovereignty-over-temporarily-occupied-territories-in-donetsk-and-luhansk-regions>

¹⁵² <https://zakon.rada.gov.ua/laws/show/671-2014-%D0%BF>

¹⁵³ <https://zakon.rada.gov.ua/laws/show/281-2016-%D0%BF>

¹⁵⁴ <https://cimic.com.ua/kerivni-dokumenti-z-pitan-cvs-zsu>

- 1) from the declaration of independence of Ukraine in 1991 to the beginning of the armed seizure of the Crimean Peninsula by the Russian Federation in February 2014;
- 2) from the beginning of the armed seizure and illegal annexation of the Crimea by the Russian Federation to the withdrawal of Ukrainian servicemen from the peninsula (February-April 2014);
- 3) the period after the illegal annexation of to the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation.

Prior to the armed seizure of the Crimean Peninsula in 2014, the presence of the Russian Black Sea Fleet negatively impacted the human rights situation in the following dimensions:

- violation of the rights of Ukrainian servicemen by Russian officers and commanders in the period before division of the post-Soviet Black Sea Fleet;
- intimidation by threat to use military force against Ukrainian civilian and military institutions in the Crimea;
- illegal actions of Russian servicemen against Ukrainian civilians, including beating and detention;
- violation of the rules of movement through Ukraine's territory of Russian military personnel, equipment and ammunition outside the territory of their permanent deployment;
- environmental pollution and thus violation of right to a safe environment.

In the first half of the 1990s, despite the Ukraine-Russia agreement that servicemen on ships and military objects of the post-Soviet Black Sea Fleet would be free to take an oath of allegiance to the state of their citizenship,¹⁵⁵ in practice, those servicemen who choose to serve Ukraine often became subjects to mental pressure and physical abuse by Russian officers and commanders. They faced the unbearable working conditions and humiliation of their human dignity – Russian officers called them 'traitors', imposed unmotivated punishments, prevented them from getting

promoted and often dismissed from service on trumped-up pretexts.¹⁵⁶

The cases of beatings of Ukrainian servicemen by their Russian counterparts also took places. For example, one of the officers of the 174th anti-aircraft missile brigade of Ukraine was beaten only for wearing a cape with the coat of arms of Ukraine. There was also the case when at night a group of Russian marines broke into the location of Ukraine's air defence base and threw smoke bombs into barracks with soldiers.¹⁵⁷

In early 1990s, intimidation by threat to use Russian military force against Ukrainian civilian and military institutions in the Crimea was an often case. Here are just some examples:

- On 28 January 1994, during military exercise, two Su-27 aircrafts of the 43rd naval assault regiment of the Russian Black Sea Fleet simulated approach to combat course for the use of airborne weapons in the area of deployment of Ukrainian navy ships;¹⁵⁸
- On 20 May 1994, the Su-17 aircrafts from Gvardiiske airfield during the exercise simulated rocket-propelled bombing at Ukrainian troops in the Crimea;¹⁵⁹
- On 7 September 1994, the naval helicopters of the Russian Black Sea Fleet made several rounds of the building of Ukrainian Naval Forces' headquarters, where command and staff exercises were held;¹⁶⁰
- in 1994, combat vehicles of the Russian Black Sea Fleet repeatedly appeared on the entrance to and on the streets of Crimean cities without warning the Ukrainian authorities (so that it looked like a military seizure of the cities).¹⁶¹

In June 2009, the Russian fleet servicemen used physical force against three dozen Ukrainian civilians who participated in the peaceful protests near the Black Sea Fleet

¹⁵⁶ <http://bintel.com.ua/uk/article/krym-94-2/>

¹⁵⁷ <https://tyzhden.ua/Publication/3799>

¹⁵⁸ <http://bintel.com.ua/uk/article/sevastopol%27-krym-rossija/>

¹⁵⁹ <http://bintel.com.ua/uk/article/separatisty-nachinajut-i-proigryvajut/>

¹⁶⁰ <http://bintel.com.ua/uk/article/krym-8-raskol/>

¹⁶¹ <http://bintel.com.ua/uk/article/separatisty-nachinajut-i-proigryvajut/>

¹⁵⁵ https://zakon.rada.gov.ua/laws/show/en/643_018

Officers' House and the Russian Black Sea Fleet headquarters building. (Defrauded investors protested against the Construction Management Corporation of the Russian Black Sea Fleet which failed to comply with its obligations on commercial housebuilding of four multi-storeyed houses on the Astana Kesayev Str. in Sevastopol.)¹⁶²

In August 2011, the Russian Black Sea Fleet servicemen seized and detained eight activists of the All-Ukrainian Youth NGO "Student Brotherhood" who protested against the illegal seizure and use of the Ukrainian "Sarych" lighthouse. This lighthouse along with several others was unauthorizedly used by the Russian Fleet servicemen, despite the fact that it was not included to the list of objects to be used by the Russian Fleet under the Ukraine-Russia agreements.¹⁶³

Article 15 of the Agreement on the status and conditions of presence of the Russian Federation Black Sea Fleet on the territory of Ukraine (1997) provides that "Movements related to the activities of military formations outside the places of their deployment shall be carried out with consent of the competent authorities of Ukraine".¹⁶⁴ However, in practice, the Russian side systematically violated this provision, posing threats to the safety and life of Ukrainian citizens by redeploying even the explosive ammunition without consent of the competent Ukrainian authorities. Following another incident of movement of the Black Sea Fleet combat missiles through the city of Sevastopol without consent of the Ukrainian authorities, on 23 July 2009, the Ministry of Foreign Affairs of Ukraine issued a protest to the Russian Federation.¹⁶⁵ But despite Kyiv's protests, the Russian side continued to ignore the relevant provisions of the bilateral agreements.

Outdated technologies and the lack of proper cleaning systems on warships and coastal infrastructure of the Russian Black Sea Fleet lead to significant negative environmental impacts in the Crimea. Dirt and pollutants from ships and other military objects have been dumped directly into the sea and into the air for decades.¹⁶⁶ It negatively impacted the whole ecosystem of the peninsula, health of the population and ecological situation in the Crimean resorts. According to environmentalists, in the bays of Sevastopol, the concentration of petroleum products was 180 times higher than the maximum permissible norms; ships and coastal objects of the Russian Black Sea Fleet daily dumped thousands of tons of untreated wastewater into the sea.¹⁶⁷ A threat to the ecology of the Crimea is also posed by the military depots of the Russian Black Sea Fleet, where the expired ammunition is stored.¹⁶⁸

The Russian side ignored requests of the Ukrainian official bodies and NGOs to provide reliable information on environmental risks and the need for modernization of the treatment facilities of ships and infrastructure objects of the Black Sea Fleet. The BSF command denied Ukrainian state environmental officials from access to fleet objects and estimation of the environmental situation. On 18 August 2009, the Ministry of Foreign Affairs of Ukraine issued a protest to the Russian Federation regarding the violation of environmental standards by the Black Sea Fleet in Sevastopol Bay,¹⁶⁹ but the Russian side continued to ignore the environmental issue.

The year of 2014 became the most indicative regarding the threats posed by the Russian military base deployed on the territory of Ukraine. The capabilities of the Russian Black Sea Fleet were used for the armed seizure, occupation and subsequent illegal annexation of Ukrainian Crimea by the

¹⁶² <https://www.unian.ua/society/235040-vivskovoslujbovtsi-chf-rf-pobilisya-z-jertvami-budivelnosti-feri.html>

¹⁶³ <https://tyzhden.ua/News/29072>

¹⁶⁴ https://zakon.rada.gov.ua/laws/show/643_076

¹⁶⁵ <http://www.hai-nyzhnyk.in.ua/doc/2017doc.krym-chornom-flot.php>

¹⁶⁶ <http://vmv.kymu.edu.ua/v/09/16.htm>

¹⁶⁷ <https://www.unian.ua/politics/351825-ekologi-vimagayut-dani-pro-shkodu-vid-chf.html>

¹⁶⁸ <http://vmv.kymu.edu.ua/v/09/16.htm>

¹⁶⁹ <http://www.hai-nyzhnyk.in.ua/doc/2017doc.krym-chornom-flot.php>

Russia Federation that led, along with other negative consequences, to a critical deterioration in the human rights situation on the peninsula.

In February-March 2014, without consent of the Ukrainian side and in violation of the relevant bilateral agreements, Russia substantially increased its military presence in the Crimea. Russian soldiers without insignia seized the local authorities of the Autonomous Republic of Crimea and blocked Ukrainian military units, threatening to use weapons. Under conditions of military occupation, on 16 March 2004, the illegitimate 'referendum' was held in the Crimea that was not recognized by the OSCE, the UN and other international organizations. On 18 March 2004, in Moscow, Russian president Vladimir Putin and the self-proclaimed 'leaders' of the Crimea and the city of Sevastopol Sergey Aksenov, Vladimir Konstantinov and Alexei Chaly signed the so-called treaty "on the admission of the Crimea to the Russian Federation".¹⁷⁰ International organizations and most countries do not recognize the legitimacy of this 'treaty' and of the annexation of the Crimea by the Russian Federation.

It is important to note that in his interview with Radio "Europe1" and TV "TF1", Russian president Vladimir Putin openly acknowledged the participation of Russian servicemen deployed in the Crimea in conducting the so-called 'referendum' that became a pretext for the illegal annexation of peninsular by Russia. Putin said the following: "Russian troops were in Crimea under the international treaty on the deployment of the Russian military base. It's true that Russian troops helped Crimeans hold a referendum on their (a) independence and (b) desire to join the Russian Federation".¹⁷¹

During the military seizure of the Crimea, the Russian side committed detentions,

beatings and shelling on Ukrainian servicemen, two of whom were killed.

Thus, on 18 March 2014, during the Russian attack with using of automatic weapon on the premises of the Ukrainian Cartographic Centre in Simferopol, ensign of the Ukrainian Armed Forces Serhiy Kokurin was killed, captain Valentin Fedunik was seriously injured by the firearms, and the Centre's chief, colonel Andrew Andryushin was illegally detained.¹⁷² On 19 March 2014, the Russian side unlawfully detained the commander of the Ukrainian Navy Serhiy Gaiduk,¹⁷³ depriving him of possibility to fulfil his duties. No one was punished for these crimes.

Despite the promise of the Russian leadership to allow Ukrainian military personnel to peacefully leave the Crimea, actually they were subjected to moral pressure and threats of physical violence before leaving the peninsula. On 6 April 2014, in the premises of a military hostel where Ukrainian servicemen lived, Russian junior sergeant Yevgeny Zaitsev shot to death the unarmed Ukrainian major of the 10th Saki Brigade of the Naval Aviation Stanislav Karachevsky. On the same day, Russian servicemen beat and unreasonably detained for 5 days Ukrainian captain Artem Yermolenko. For the murder of Ukrainian serviceman, the Russian-controlled Crimean garrison military court sentenced sergeant Zaytsev to just 2 years in the lightweight regime penal colony.¹⁷⁴

Among other crimes committed during the Russian occupation of the Crimea, human rights defenders note the use of civilians as a 'human shield'. On 26 February 2019, the Prosecutor's Office of the Autonomous Republic of Crimea, the Ukrainian Helsinki Human Rights Union and the Regional Center for Human Rights reported on the transfer to the International Criminal Court of the evidence that Russian servicemen intentionally moved civilians to the military objects of the Ukrainian Armed Forces in the

¹⁷⁰

<http://publication.pravo.gov.ru/Document/View/0001201403180024>

¹⁷¹ <http://en.kremlin.ru/events/president/news/45832> ;

<http://kremlin.ru/events/president/news/45832>

¹⁷² <https://ua.krymr.com/a/29204232.html>

¹⁷³ <https://www.bbc.com/news/world-europe-26656617>

¹⁷⁴ <https://www.radiosvoboda.org/a/27738783.html>

Crimea staying behind their backs during blocking and capture of these military objects. It was a war crime provided for in Article 8 of the Rome Statute of the International Criminal Court, a violation of Article 28 of the IV Geneva Convention and of Article 51 of the Additional Protocol (I) to Geneva Conventions, as well as of the Rule 97 of the Customary International Humanitarian Law.¹⁷⁵

Following the military occupation and the illegal annexation of Crimea by the Russian Federation, those Ukrainian servicemen, who did not agree to betray the oath and go into service in the Russian Armed Forces, were forced to leave the peninsula. Thus, 6010 servicemen, of whom 3991 served in the Armed Forces of Ukraine, 1177 in the National Guard, 519 in the State Border Service, 242 in the Security Service of Ukraine, 20 in the Department of the State Guard, and 61 in the State Space Agency,¹⁷⁶ were forced to leave the Crimea together with their families and to move to the mainland of Ukraine, often without proper living conditions.

Due to the mental pressure and deprivation of civil rights of those who refused to accept Russian citizenship after the illegal annexation of the Crimea, some 50-60 thousand civilians were forced to leave the peninsular, of whom 33.5 thousand were officially registered in Ukraine as internally displaced persons.¹⁷⁷ Thus, more than fifty thousand inhabitants of the peninsular lost their homes, property, and places of work and study.

The period after the illegal annexation of the Crimea by the Russian Federation is characterized by a critical deterioration in the situation with human rights. Human

rights violations became systematic and blatant, with bold disregard of Ukrainian legislation and international humanitarian law. Such violations are committed by the law enforcement and security service officers appealing to the Russian legislation (that has no legal effect in the territory of the Ukrainian Crimea), and by the so-called 'unknown persons' with the connivance of law enforcement agencies. Persons suspected of disloyalty to the occupation regime, primarily Ukrainian and Crimean Tatar civic activists, are most often subjected to unjustified persecution, torture, detention and even murder.

During and after the military seizure of the Crimea by Russia, a number of violations of the 1949 Geneva Conventions (on the Protection of Victims of War) took place, despite the fact that these conventions were ratified by the Soviet Union in 1954, and accordingly are applicable to the Russian Federation as the successor to the USSR. In particular, according to the norms of the Geneva Conventions, Russia as an occupying power (recognized as such by resolutions of the UN General Assembly of 2016-2017¹⁷⁸) has no right to force the inhabitants of the occupied territories to serve in its armed forces; the courts must act only in accordance with the legislative provisions in force at the time when the offense was committed; the occupying state is prohibited from changing the status of officials or judges in the occupied territories; the occupying power should allow religious ministers to provide spiritual support to their fellow believers, and etc. In fact, these and other norms of the Geneva Conventions are blatantly violated by the Russian Federation.¹⁷⁹

Cases of human rights violations in the illegally annexed Crimea, collected by the international organisations and human rights NGOs take hundreds of pages. Below we provide a brief overview of some important publications and resources on

¹⁷⁵

https://ark.gp.gov.ua/ua/news.html?_m=publications&_c=vi_ew&_t=rec&id=246320

¹⁷⁶ <https://tsn.ua/ukrayina/matios-oprilyudniv-kilkist-ukrayinskih-viyskovih-yaki-zalishilisya-v-okupovanomu-krimu-585526.html>; <https://dt.ua/UKRAINE/pislya-aneksiyi-krimu-virmimi-prisyazi-zalishilisya-mayzhe-chotiri-tisyachi-ukrayinskih-viyskovih-minoboroni-259371.html>

¹⁷⁷ <https://ua.krymr.com/a/eskender-bariiev-rosiia-robyt-use-shchob-pozbutysia-nebazhanoho-naselennia-v-krymu/30097807.html>

¹⁷⁸ <https://undocs.org/ru/A/C.3/72/L.42>

¹⁷⁹ <https://www.radiosvoboda.org/a/30103168.html>

human rights violations in the occupied Crimea.

In September 2019, during the 74th session of the UN General Assembly, the first report of the UN Secretary-General “Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine” was presented.¹⁸⁰ The report provides general overview of the civil, political, economic, social, cultural and other rights violations in the occupied Crimea. The report describes situation on the following human rights:

Civil and political rights

- A. Right to nationality
- B. Administration of justice and fair trial rights
- C. Rights to life, liberty and security
- D. Right to physical and mental integrity
- E. Rights of detainees
- F. Freedom of thought, conscience and religion
- G. Freedoms of opinion and expression
- H. Freedoms of peaceful assembly and association
- I. Right to maintain one’s identity, culture and tradition

Economic, social and cultural rights

- A. Right to education in one’s native language
- B. Property rights

*Prohibition on forced conscription
Population transfers*

In particular, the report of the UN Secretary-General emphasizes that automatic granting of Russian citizenship to Crimean residents can have a negative impact on the enjoyment of rights that are inextricably linked to citizenship, particularly freedom of movement and residence rights. And this is indeed the case, as Crimean residents who have refused Russian citizenship are automatically considered foreigners deprived of their right to permanently reside in the Crimea and under threat of being deported.

The report notes violations by Russia as occupying power of the 1949 Geneva Conventions, in particular, of the right to a fair trial. After the occupation of the Crimea, Russian authorities repealed Ukrainian penal legislation on the peninsula and requalified the criminal sentences of all pre-conflict detainees in accordance with the criminal law of the Russian Federation. Some of the pre-conflict prisoners have been transferred to penal colonies in the Russian Federation; requests from detainees to meet with Ukrainian consular officers were rejected.

The report notes that since the annexation of the Crimea, 42 facts of enforced disappearance of people have been identified. As of 30 June 2019, 28 of them had been released, 2 were being held in custody, one Crimean Tatar activist had been found dead, and 11 were still missing.

Torture and ill-treatment of individuals deprived of their liberty are also noted in the report, especially regarding those suspected in “anti-Russian” activities. The conditions of detention do not meet international humanitarian standards; medical assistance is inadequate. But even in cases of credible complaints on torture and ill-treatment, criminal investigations have not been launched and no perpetrators have been brought to justice.

After the illegal annexation, all religious communities in the Crimea have been obliged to re-register under the laws of the Russian Federation that led to a drop in the number of registered religious organizations. The refusal of the Ukrainian Orthodox Church of the Kyiv Patriarchate and some other religious organizations to re-register due to their non-recognition of the Russian annexation of the peninsula, led to the loss of their legal status and related property and other rights. After receiving physical threats several priests have left the Crimea. At least 67 Crimean Tatars have been charged for offences related to terrorism and/or extremism for alleged affiliation with Hizb ut-Tahrir and Tablighi Jamaat (Muslim groups that are prohibited in the Russian Federation). Several members of the

¹⁸⁰ <https://undocs.org/A/74/276> ;
<https://undocs.org/ru/A/74/276>

Crimean congregation of Jehovah's Witnesses have also been arrested.

The independent journalistic activity, freedoms of opinion and expression as well as freedoms of peaceful assembly and association are restricted. The Office of the United Nations High Commissioner for Human Rights (OHCHR) documented cases of individuals detained for expressing dissenting views towards authorities of the Russian Federation. In October 2017, 80 Muslims were prosecuted for conducting single-person protests against criminal cases against other Muslims.

The Crimean Tatar Mejlis was prohibited, and activists of the Crimean Tatar national movement were persecuted by the Russian authorities. Activities related to Ukrainian culture were restricted, and some Ukrainian activists were forced to leave the Crimea due to intimidations. The availability of education in the Ukrainian language has sharply decreased. The number of students instructed in the Ukrainian language dropped 51 times – from 12,694 in 2013 to 249 children in 2018. Cases in which the school administration rejected explicit requests from parents to use Crimean Tatar as the language of instruction were documented.

Since the illegal annexation of the Crimea, at least 4,671 real estate assets have been expropriated as part of the so-called 'nationalization', including the seizure of real property of private companies and individuals conducted without compensation that was the open violations of the property rights.

In violation of the 1949 Geneva Conventions, the Russian Federation forces residents of the occupied Crimea to serve in its armed forces. At least 18,000 Crimean residents have been conscripted into the Russian armed forces. There had been at least 29 guilty verdicts rendered in criminal prosecutions of Crimean men for draft evasion since 2017.

In 2017-2018, the Crimean courts ordered the forcible transfer of at least 947 Crimean

residents who refused to accept Russian citizenship, at least 109 of whom were forcibly removed from the peninsula by the law enforcement authorities of the Russian Federation. (A much larger number of Crimea residents left peninsula on their own, due to mental pressure and restriction of civil rights.) At the same time, in violation of the international humanitarian law, mass migration of residents of the Russian regions to the occupied Crimea is taking place. In 2014-2018, more than 140,000 Russian citizens were resettled to the Crimea peninsula from different regions of the Russian Federation.¹⁸¹

Human rights abuses in the occupied Crimea are reported by the Office of the United Nations High Commissioner for Human Rights. For example, the "Report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine", for the period from 13 September 2017 to 30 June 2018, submitted pursuant to United Nations General Assembly resolution 72/190, documented 81 cases involving credible allegations of human rights violations and abuses, which affected 167 victims.¹⁸²

Deterioration in human rights situation in the occupied Crimea is also noted in the UNESCO report of 13 September 2019. Report notes the "persistent and growing disrespect of human rights and fundamental freedoms manifested by Russia since the outset of the occupation of the peninsula", including the false accusations based on the Russian legislation on 'extremism and terrorism'; severe discrimination and political persecution of the ethnic Ukrainians and Crimean Tatars who identify themselves with Ukrainian state; decrease in number of classes with Ukrainian language of instruction in educational institutions by over 98%; persecution of independent media; persecution of religious traditions;

¹⁸¹ <https://undocs.org/A/74/276> ;
<https://undocs.org/ru/A/74/276>

¹⁸² https://www.ohchr.org/Documents/Countries/UA/CrimeaThematicReport10Sept2018_EN.pdf ;
https://www.ohchr.org/Documents/Countries/UA/CrimeaThematicReport10Sept2018_UKR.pdf

illicit archaeological researches and transfer of cultural property, and etc.¹⁸³

Bureau of Democracy, Human Rights, and Labor of the U.S. Department of State in the “2018 Country Reports on Human Rights Practices: Ukraine” dedicated special section to situation in the Russian-occupied Crimea, noting the following violations of human rights: arbitrary deprivation of life and other unlawful or politically motivated killings; abductions and disappearances by occupation authorities; torture and other cruel, inhuman, or degrading treatment or punishment; harsh and life threatening prison and detention centre conditions; arbitrary arrest and detention; denial of fair public trial; arbitrary or unlawful interference with privacy, family, home, or correspondence; violates of freedom of speech and press, academic freedom, freedom of peaceful assembly, freedom of association, freedom of religion, freedom of movement, freedom to participate in the political process, discrimination, societal abuses, and trafficking in persons; acts of violence, discrimination, and other abuses based on sexual orientation and gender identity.¹⁸⁴

Facts of violation of the religious freedom in the Russian-occupied Crimea are presented in the “Crimea” section of “Ukraine 2018 International Religious Freedom Report” by the Bureau of Democracy, Human Rights, and Labor of the U.S. Department of State.¹⁸⁵ Critical deterioration in the human rights situation after the occupation and illegal annexation of the Crimean Peninsula by Russia is also documented and reported by the non-governmental human rights organizations. In particular, director of Amnesty International in Ukraine Oksana Pokalchuk notes that the premises of the

Crimean Tatar activists are often unreasonably searched by Russian law enforcement officers with aim of intimidation. Presence in houses of the religious literature, which is allowed in Ukraine but is considered ‘extremist’ in Russia is often used as a pretext for criminal persecutions as well as suspicion of affiliation with Hizb ut-Tahrir Muslim group that is prohibited in Russia.¹⁸⁶

The Civic Solidarity Platform that brings together human rights defenders from around the world also reports on numerous human rights violations in the occupied Crimea. In particular, in March 2019, 45 human rights organizations from different countries signed a statement condemning the Russian Federal Security Service (FSB) raids against the Crimean Tatar activists that took place on 27 March 2019. FSB officers searched 27 Crimean Tatar houses and arrested 20 people, including activists of the Crimean Solidarity human rights movement.¹⁸⁷

On 19 September 2019, in his statement addressing the OSCE Human Dimension Implementation Meeting in Warsaw, the representative of the Crimean Human Rights Group (CHRG) Oleksandr Sedov informed that during the period of occupation, the CHRG has registered 374 facts of criminal or administrative prosecution for participation in peaceful assemblies.¹⁸⁸ The CHRG regularly publishes on its website the monitoring reports on the human rights violations in the occupied Crimea.¹⁸⁹ In particular, on 3 May 2019, it reported that 86 people were illegally deprived of their liberty as part of politically motivated or religious persecution in the annexed

¹⁸³

<https://unesdoc.unesco.org/ark:/48223/pf0000370522/PDF/370522eng.pdf.multi>

¹⁸⁴ <https://www.state.gov/wp-content/uploads/2019/03/UKRAINE-2018-HUMAN-RIGHTS-REPORT.pdf>; <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/ukraine/ukraine-crimea/>

¹⁸⁵ <https://www.state.gov/wp-content/uploads/2019/05/UKRAINE-2018-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>

¹⁸⁶ <https://www.ukrinform.ua/rubric-crimea/2669879-prava-ludini-u-krimu-amnesty-zaavlae-pro-kriticnu-situaciju.html>

¹⁸⁷ <http://www.civicsolidarity.org/article/1588/russian-authorities-crack-down-human-rights-activists-and-other-individuals-occupied>

¹⁸⁸ <https://www.ukrinform.net/rubric-society/2783637-almost-400-cases-of-violation-of-right-to-assembly-in-crimea-recorded-during-occupation.html>

¹⁸⁹ <https://www.ukrinform.net/rubric-society/2783637-almost-400-cases-of-violation-of-right-to-assembly-in-crimea-recorded-during-occupation.html>;

https://crimeahrg.org/wp-content/uploads/2019/09/crimean-human-rights-group_aug_2019_ua.pdf

Crimea.¹⁹⁰ The activists of the CHRГ also noted more than 300 facts of pressure against the journalists and media in the Crimea, including the tortures, arbitrary detentions, seizures of property, searches, threats, mental pressure and etc.¹⁹¹

NGO Crimea SOS in partnership with the Crimean Human Rights Group, All-Ukrainian Charitable Foundation “Right to Protection” and Centre for Civil Liberties, created the interactive map systemizing the facts of human right violations in the occupied Crimea. As of September 2019, the map shows information about 422 such cases.¹⁹²

Conclusions

The issue of foreign military presence in the context of respect for human rights will remain one of the important issues on the agenda for all East European countries, including Ukraine. The case of legislative regulation of staying in Ukraine of the Black Sea Fleet of the Russian Federation demonstrates clearly the Russian strategic approach for using all available hybrid mechanisms to strengthen its influence on neighbouring states, including the use of law as a kind of hybrid warfare triggering abuses of human rights and threatening human security as such. Among principal objectives to achieve by the Russian Federation were the future occupation and annexation of the Crimean Peninsula and the city of Sevastopol, as well as executing political and military pressure on the Ukrainian Government.

The insufficient detailing and the low level of practical implementation of basic laws, regulating the presence of the Russian military base (the Black Sea Fleet) on the territory of Ukraine as well as the lack of unified strategic approach, reinforced by incomplete use of the potential of

international organizations in the field of human rights protection, led to a low indicator of the practical use of the legal framework to monitor the situation on the ground and conduct investigations of the revealed violations of human rights and freedoms.

After the military occupation and illegal annexation of the Crimea by Russian Federation, based on the tragical lessons learnt, rather comprehensive legal framework for monitoring/investigating human rights violations by foreign troops has been established in Ukraine, applying to all units of the foreign armed forces temporarily stationed in the country. But the practical implementation of this legal framework is now virtually impossible in the Russian-occupied Crimea.

Therefore, it is important to document all human rights violations in the Crimea, to be able to investigate them and bring those responsible to justice when it becomes possible. Simultaneously, Ukraine together with the international community should continue work on searching ways to make the Russian Federation to uphold its obligations under international human rights law in the Crimea and to respect obligations that apply to it pursuant to international humanitarian law.

These issues should be properly considered with view to the perspective of future regaining control over the illegally annexed Crimea and the occupied territories of the Donbas, especially when discussing the possibility of foreign peacekeeping forces deployment on the territory of Ukraine. The creeping annexation of the Sea of Azov also should be also mentioned as it significantly increases parameters of human rights violations becoming a kind of full-fledged blockade.

Having all this in mind, there is an obvious need to elaborate comprehensive legal mechanisms relating to any foreign military presence. This issue should also be incorporated in transitional justice agenda as

¹⁹⁰ <https://qha.com.ua/en/po-polochkam-en/86-persons-deprived-of-their-liberty-in-occupied-crimea-on-political-and-religious-grounds-entire-list/>; <https://qha.com.ua/po-polochkam/86-chelovek-lisheny-svobody-v-krymu-po-politicheskim-i-religioznym-priznakam-ves-spisok/>

¹⁹¹ <https://crimeahrg.org/uk/znishhennya-svobodi-slova-u-krimu-ta-informacijna-agresiya-rf/>

¹⁹² <http://crimeamap.krymsos.com/eng/map.html>

a key driver of law enforcement and human rights protection under the general concept of human security.

From that point of view, the experience of other countries is important, including Armenia and Moldova. Many options for addressing challenging issues with the

Russian military presence are often interrelated and may be repeated in one way or another. Therefore, timely exchange of experience could help to avoid basic mistakes and to respond properly to human rights violations while countering hybrid law influence.

Annex 1. The documents signed between the Republic of Armenia and the Russian Federation

#	Signature Date	Name of Agreement/Document	Brief Content
1.	1992	Treaty/Agreement between the Republic of Armenia and the Russian Federation on the status of the Russian Federation Border Troops and the Conditions of their Activity in the Territory of the Republic of Armenia. ¹⁹³	Defines the powers of the border troops of the Russian Federation stationed in the Republic of Armenia in the protection of the state border with Turkey and Iran.
2.	1995	Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory of the Republic of Armenia ¹⁹⁴	Defines the terms and conditions of the security along the external border of the former USSR with the RA Armed Forces, in addition to the responsibilities of protecting the interests of the Russian Federation while within the territory of the Republic of Armenia.
3.		Number 1 Protocol to the Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory of the Republic of Armenia in 1995	
4.		Number 2 Protocol to the Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory of the Republic of Armenia in 1995	
5.		Number 3 Protocol to the Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory of the Republic of Armenia in 1995	
6.	2003	Number 4 Protocol to the Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory of the Republic of Armenia in 1995 ¹⁹⁵	
7.	2010	Number 5 Protocol to the Treaty between the Republic of Armenia and Russian Federation on the Russian military base on the territory	Among others, the protocol extends the validity period of the Treaty (including the stay of the Russian military

¹⁹³ <https://uicarmenia.org/wp-content/uploads/2015/08/Paym-sahmanapah-arm.pdf>

¹⁹⁴ <http://uicarmenia.org/wp-content/uploads/2015/01/paym-razmabaza-1995.pdf>

¹⁹⁵ <https://www.arlis.am/DocumentView.aspx?docid=4790>

		of the Republic of Armenia in 1995 ¹⁹⁶	base in the territory of the Republic of Armenia) - instead of the previous 25 years it shall stay for 49 years.
8.	September 27, 1996	The Agreement between the Government of the Republic of Armenia and the Government of the Russian Federation on the procedure of the Russian military base deployment points on the territory of the Republic of Armenia and of the transfer and use of land plots for the Russian military base deployment and operation and the Russian military base ¹⁹⁷	
9.	August 29, 1997	Agreement between the Republic of Armenia and the Russian Federation on Jurisdiction and Mutual Legal Assistance on the cases of the Russian Military Base related to its being on the Territory of the Republic of Armenia ¹⁹⁸	The competent authorities of the Parties shall provide each other legal assistance in matters relating to the location of the Russian military base in the territory of the Republic of Armenia; in civil, family, criminal cases; and cases concerning administrative offenses.
10.	1997	Agreement between the Republic of Armenia and the Russian Federation on the use of weapons by the Russian military base servicemen outside the Russian military base ¹⁹⁹	It defines the objectives of the provision, and the keeping, handling and use of weapons by servicemen performing their military service duties outside the Russian military.
11.		Agreement between the Government of the Republic of Armenia and the Government of the Russian Federation on organizing day-to-day activity and garrison service of the Russian military formations outside the territory of the Russian military base in the Republic of Armenia ²⁰⁰	It defines the organization of day-to-day operations and garrison service of the military groups of the Russian military base outside its territory.
12.	2000	Agreement between the Republic of Armenia and the Russian Federation on joint planning of the use of troops (forces) to ensure joint security ²⁰¹	It defines the parties' obligations to jointly analyze the military-political situation; to define the composition of united groups of troops; to organize

¹⁹⁶ <https://www.arlis.am/DocumentView.aspx?DocID=65694> ; <https://www.mediamax.am/am/news/parzabanum/13078>

¹⁹⁷ <http://www.irtek.am/views/act.aspx?aid=15489>

¹⁹⁸ <http://uicarmenia.org/wp-content/uploads/2015/01/paym-irav-1997.pdf>

¹⁹⁹ <http://uicarmenia.org/wp-content/uploads/2015/08/hamadzaynagir-zenq-arm.pdf>

²⁰⁰ <http://uicarmenia.org/wp-content/uploads/2015/08/hamadzaynagir-kayazor-arm.pdf>

²⁰¹ <http://www.irtek.am/views/act.aspx?aid=12510> ; <https://www.arlis.am/DocumentView.aspx?DocID=3905>

			management, implementation, and to jointly solve issues related to the establishment of command; to ensure the joint establishment of a united system of troops, intelligence, weapon management, logistics, operative-combat combat issues, etc.
13.	2004	The Republic of Armenia Government decision, in accordance with the agreements between the Republic of Armenia and the Russian Federation on approving the procedure of reimbursing the organizations performing and proving services held in the railway for the interstate military transfers of the Russian Federation military units located in the Republic of Armenia, including the Border troops ²⁰²	Defines the procedures of reimbursements.
14.	2011	Agreement between the Government of the Republic of Armenia and the Government of the Russian Federation on the procedure of the Russian military base deployment points on the territory of the Republic of Armenia ²⁰³	
15.	October 3, 2012	Protocol on “The Deployment Points of the Russian Military Base in the Territory of the Republic of Armenia between the Government of the Republic of Armenia and the Government of the Russian Federation ²⁰⁴	
16.	2015	Treaty/Agreement between the Republic of Armenia and the Russian Federation on the Establishment of the Integrated Regional Air Defense System in the Caucasian Region ²⁰⁵	The main tasks, functions, principles of deployment and use of the forces of the united air defense system in the Caucasian region of the Collective Security are set forth in the Charter of the united air defense system in the Caucasian region of Collective Security.

²⁰² <https://www.arlis.am/documentview.aspx?docID=12827>

²⁰³ <https://www.e-gov.am/gov-decrees/item/20651/>

²⁰⁴ <https://www.lragir.am/2013/11/20/91185/>

²⁰⁵ <https://www.arlis.am/DocumentView.aspx?docid=115436>

17.	November 30, 2016	Agreement between the Republic of Armenia and the Russian Federation on Joint Grouping of the Armed Forces of the Republic of Armenia and Armed Forces of the Russian Federation ²⁰⁶	Defines the main tasks of the unified group, the procedure of management and placement.
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²⁰⁶ <https://uicarmenia.org/wp-content/uploads/2016/12/Hamadzaynagir-Miacyal-zorakhumb-arm.pdf> ;
<https://uicarmenia.org/2252>

Annex 2. The documents signed between the Republic of Moldova and the Russian Federation

No.	Signed on	Title of the Agreement/Document	Brief Content
1	July 21, 1992	Agreement on the Principles for the Peaceful Settlement of the Armed Conflict in the Transnistria Region of the Republic of Moldova ¹	1. Cease fire and withdrawal from combat positions of troops and military equipment; 2. Creation of a security zone (which was not immediately delimited, which subsequently allowed the abusive takeover of control over certain territories, including localities by the de facto administration, supported by the Russian Federation); 3. Establishment of the Unified Control Commission (CUC); 4. The declaration of the town Bender (mun. Tighina) as a place of residence of the CUC and an area with a special security regime, where the public order is provided by the CUC in interaction with the constitutional police structures but also with those of the separatist militia; 5. Free movement of goods, services and persons.
2	August 26, 1992	Agreement between the Government of the Republic of Moldova and the Government of the Russian Federation on the conditions for the withdrawal of the regiment 300 airborne guards on the territory of the Russian Federation ¹	Evacuation of military personnel, techniques and ammunition of the 300th regiment on the territory of the Russian Federation.
3	November 13, 1992	Agreement between the Government of the Republic of Moldova and the Government of the Russian Federation on the conditions for the withdrawal of the regiment 2 bridges and pontoons on the territory of the Russian Federation ¹	Evacuation of the regiment 2 bridges and pontoons on the territory of the Russian Federation.
4	December 21/29, 1993	Agreement between the Government of the Republic of Moldova and the Government of the Russian Federation on the reciprocal transmission of munition, military equipment and military-technical assets	Reciprocal transmission and division of munition, military technique and technical and military assets.
5	October 21, 1994	Agreement between the Russian Federation and the Republic of Moldova on the legal status, the	1.Synchronizing the withdrawal of the army of the Russian Federation from the territory of the Republic of

		manner and the terms of withdrawal of the military formations of the Russian Federation temporarily located on the territory of the Republic of Moldova	Moldova with the political settlement of the Transnistrian conflict and establishing a special status for the "Transnistrian region of the Republic of Moldova"; 2. the withdrawal by the Russian side of its military formations within 3 years from the entry into force of the agreement, the withdrawal to be carried out simultaneously with the political settlement of the Transnistrian conflict and the establishment of a special status of the "Transnistrian region of the Republic of Moldova ". Regarding the stages and dates of the definitive withdrawal of these formations, it provides that they were to be established in a separate protocol, concluded between the defense ministries of both parties. 3. The Tiraspol military airport was to be used jointly by the Russian Troops Task Force aviation and the "civil aviation of the Transnistria region of Moldova".
6	October 21, 1994	Agreement between the Ministries of Defense of the Republic of Moldova and the Russian Federation on the aviation activity of the military formations of the Russian Federation provisionally deployed in the territory of the Republic of Moldova, and on the use of the Tiraspol aerodrome by the aviation transport of the Armed Forces of the Russian Federation	Flights to Tiraspol airport were to be carried out in accordance with the provisions of the "Temporary Regulation on the joint deployment of the military formations of the Russian Federation and the civil aviation of the Transnistrian region of Moldova" and in coordination with the State Administration of Civil Aviation of the Republic of Moldova and of the Ministry of Defense of the Russian Federation.
7	October 21, 1994	Agreement between the Government of the Republic of Moldova and the Government of the Russian Federation on social guarantees and pension insurance for former military members and members of their families ¹	Mutual legal support regarding civil, criminal and administrative cases related to the temporary presence of Russian military formations on the territory of the Republic of Moldova.
8	February 2-10, 1995	Agreement between the Government of the Republic of Moldova and the Government of the Russian Federation on the transport of troops and military loads of the military formations of the Russian Federation	Regulation of the problems regarding the transport of the military formations of the Russian Federation on the territory of the Republic of Moldova by rail, air and car transport.

		temporarily on the territory of the Republic of Moldova and the manner of mutual settlements in the given problem	
9	February 2-10, 1995	Agreement between the Ministry of Defense of the Republic of Moldova and the Ministry of Defense of the Russian Federation regarding the conditions for the withdrawal of 240 pontoons brigade (except one battalion), 237 pioneer brigade (except one battalion), the 1833 genius deposit (except two sections) on the territory of the Russian Federation	The parties described the withdrawal of said military units. In addition, the parties have elaborated and annexed 2 Lists with the technique, the patrimony, the technical-material means and the genic armament, the first list being destined for transport to FR. In contrast, inexplicably, the second list lists the goods and weapons transmitted to the "Transnistrian Region of the Republic of Moldova". ¹
10	February 2-10, 1995	Agreement between the Government of the Republic of Moldova and the Government of the Russian Federation on social guarantees and pension insurance for former military members and members of their families ¹	Regulation of the aspects regarding the pension insurance of the military and of the technical personnel.
11	February 2-10, 1995	Agreement between the Government of the Republic of Moldova and the Government of the Russian Federation on the organization of the interaction during the inspection of the military formations of the Russian Federation, in relation to the Treaty on Conventional Armed Forces in Europe and the Vienna Document of 1992 ¹	Regulates the organization of the manner of inspecting the Russian military formations on the territory of the Republic of Moldova.
12	September 23, 1997	Agreement between the government of the Republic of Moldova and the government of the Russian Federation on technical-military collaboration	Bilateral technical-military collaboration; Design and mutual supply of weapons, ammunition and military equipment.
13	April 21, 1999	Protocol between the Government of the Republic of Moldova and the Government of the Russian Federation on mutual settlements, related to the temporary establishment of the military formations of the Russian Federation in the Transnistrian region of the Republic of Moldova ¹	Release of payment for utility services granted for the period of October 1995 - July 1998, in the amount of \$ 6,021,400. Liquidation of the debt of the Transnistrian region of the Republic of Moldova to the Russian Federation.
14	September	Agreement between the Ministry	Elaboration of annual military

	16, 2004	of Defense of the Republic of Moldova and the Ministry of Defense of the Russian Federation on the cooperation in the field of flight security of state aircrafts ¹	cooperation plans.
15	May 7, 2006	Protocol between the Ministry of Defense of the Republic of Moldova and the Ministry of Defense of the Russian Federation regarding the mode of mutual settlements for troop transports and military loads related to the temporary establishment of the military formations of the Russian Federation on the territory of the Republic of Moldova ¹	Provides the method for transporting goods netting military and of the families of the military.

Annex 3. Control/Oversight Mechanisms to Prevent Human Rights Violations by Foreign Troops Deployed in Ukraine

N	Title of Documents and References	Control/Oversight Mechanisms	Monitoring Body	Jurisdiction and Investigation
1	Agreement on urgent measures for the formation of the Naval Forces of Ukraine and the Naval Fleet of the Russian Federation on the basis of the Black Sea Fleet, June 17, 1993 (Art. 4)	In order to solve the practical issues of the Black Sea Fleet distribution and to develop conditions for stationing the Naval Forces of Ukraine and the Naval Fleet of the Russian Federation based on the principles and documents mentioned in this Agreement, the Interstate Commission of the Parties shall be created with equal number of their representatives and experts. The personal composition of the Ukrainian and Russian parts of the Commission and its Regulations shall be approved respectively by the President of Ukraine and the President of the Russian Federation , who are in charge of its work.	Interstate Commission of the Parties under the direction of the President of Ukraine and the President of the Russian Federation	Not clearly defined
2	Agreement between Ukraine and the Russian Federation on the Black Sea Fleet, June 9, 1995 (Art. 11)	The Russian-Ukrainian Joint Commission consisting of the State delegations of the Russian Federation and Ukraine at the talks on the Black Sea Fleet shall be created to monitor the fulfilment of the accords on the Black Sea Fleet.	The Russian-Ukrainian Joint Commission	Not clearly defined
3	Agreement on the status and conditions of presence of the Russian Federation Black Sea Fleet on the territory of Ukraine, May 28, 1997 (Art. 6, 8, 15, 18, 19, 24)	Military units shall carry out their activities in places of deployment in accordance with the legislation of the Russian Federation , while respecting sovereignty of Ukraine and adhering to its legislation without any interference in the internal affairs of Ukraine. Military units at their places of deployment and during redeployment can take protective and security measures in accordance with the procedure established in the	The Russian-Ukrainian Joint Commission Competent authorities of Ukraine	Legislation of the Russian Federation and Ukraine Relevant agreements of the Parties Procedure established in the Armed Forces of the Russian

		<p>Armed Forces of the Russian Federation, in co-operation with the competent authorities of Ukraine.</p> <p>Relations between military personnel and members of their families with legal entities and individuals of Ukraine outside the places of deployment shall be subject to relevant agreements of the Parties as well as legislation of Ukraine.</p> <p>Movements related to the activities of military formations outside the places of their deployment shall be carried out with consent of the competent authorities of Ukraine.</p> <p>The Russian Party shall compensate for damage that may be caused to citizens or legal entities of Ukraine, citizens or legal entities of third states located on the territory of Ukraine, by actions or inactions of military formations or persons from these formations while performing their official duties in the amounts established on the basis of claims submitted in accordance with the legislation of Ukraine.</p> <p>The Ukrainian Party shall reimburse the damage that may be caused to the military formation on the territory of Ukraine by actions or inactions of citizens or legal entities of Ukraine in the amounts established on the basis of claims submitted in accordance with the legislation of Ukraine.</p> <p>Issues of jurisdiction related to the presence of military formations on the territory of Ukraine shall be regulated as follows:</p> <p>1. In cases of crimes committed by persons from military formations or members of their families on the territory of Ukraine, the laws of Ukraine shall be applied and the courts, the prosecutor's office and other</p>	<p>Federation</p> <p>Courts, prosecutor's office and other competent authorities of Ukraine and Russian Federation</p> <p>Transfer or acceptance of jurisdiction</p> <p>Diplomatic channels (through MFAs)</p>
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		<p>competent authorities of Ukraine shall operate.</p> <p>2. Paragraph 1 of this Article shall not apply: a) in the case of crimes committed against the Russian Federation by persons from military formations or members of their families, who are citizens of the Russian Federation, as well as crimes committed against persons from military formations or members of their families, who are citizens of the Russian Federation; b) in the case of committing crimes by persons from military formations being on official duties at places of deployment of military formations. In cases that are subject to this paragraph, the laws of the Russian Federation shall be applied and the courts, the prosecutor's office and other competent bodies of the Russian Federation shall operate.</p> <p>3. The competent authorities of the Parties may apply to each other with a request for the transfer or acceptance of jurisdiction over individual cases provided for in this Article. Such appeals shall be considered promptly and benevolently. The Joint Commission shall be created to resolve disputes concerning the interpretation and application of this Agreement. The Joint Commission shall act on the basis of its procedure. If the Joint Commission is unable to resolve submitted dispute, it shall be resolved through diplomatic channels as soon as possible.</p>		
4	Treaty of Friendship, Cooperation, and Partnership between Ukraine and the Russian	Each of the High Contracting Parties shall guarantee citizens of the other Party the rights and freedoms on the same grounds and in the same amount as their own nationals, except in cases established by the national	Organization for Security and Cooperation in Europe, Commonwealth of	Legislation of the Russian Federation and Ukraine OSCE ODIHR/HCNM,

	Federation, May 31, 1997 (Art. 10)	legislation of the Parties or their international treaties. Each Party shall, in accordance with the established procedure, protect the rights of its citizens residing on the territory of the other Party in accordance with the obligations of the documents of the Organization for Security and Cooperation in Europe and other generally recognized principles and norms of international law, agreements within the Commonwealth of Independent States , they are the Parties to.	Independent States	OSCE Mission to Ukraine (1994-1999) CIS Institutions
5	Law of Ukraine on the Procedure for Admission and Conditions of Stay of Units of Armed Forces of other States on the Territory of Ukraine, February 22, 2000 (Art. 22, 23, 24,26)	Control over the activities of units of the armed forces of other States on the territory of Ukraine within the framework of their authority shall be exercised by the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, the Ministry of Defence of Ukraine, other central and local executive authorities and local self-government bodies in accordance with the Constitution of Ukraine, laws and international agreements of Ukraine. In case of a person of military or civilian personnel of a unit of the armed forces of another State is suspected of committing a crime on the territory of Ukraine, the command of the unit shall assist the law enforcement agencies of Ukraine in fulfilling their duties regarding carrying out operational-search activities and investigative actions in accordance with the laws of Ukraine. Disputes arising from the temporary stay of units of the armed forces of other States on the	Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, the Ministry of Defence of Ukraine, other central and local executive authorities and local self-government bodies	Law enforcement agencies of Ukraine carry out operational-search activities and investigative actions in accordance with the laws of Ukraine Negotiations between Ukraine and other states in accordance with the procedure and conditions stipulated by the relevant international treaties

		territory of Ukraine shall be resolved through negotiations between Ukraine and other States in accordance with the procedure and conditions stipulated by the relevant international treaties . In the absence of such agreements, other mutually acceptable dispute settlement procedures shall be applied. The Ministry of Defence of Ukraine shall annually submit to the President of Ukraine and the Verkhovna Rada of Ukraine information on the presence of units of armed forces of other States on the territory of Ukraine.		
6	Resolution of the Cabinet of Ministers of Ukraine on Approval of the Regulation on the Ministry of Defence of Ukraine, November 26, 2014, # 671	The Ministry of Defence of Ukraine shall prepare and submit to the Ministry of Foreign Affairs of Ukraine proposals for the participation of military units, individual servicemen and employees of the Ukrainian Armed Forces in international peacekeeping operations, provision of military assistance to foreign states, sending units of the Armed Forces to other states, admission and conditions of stay of units of armed forces of other States on the territory of Ukraine.	Ministry of Defence of Ukraine, Ministry of Foreign Affairs of Ukraine	Not applicable
7	Resolution of the Cabinet of Ministers of Ukraine on Approval of the Regulation on the Ministry of Foreign Affairs of Ukraine, March 30, 2016, # 281	The Ministry of Foreign Affairs of Ukraine shall exercise general supervision over the implementation of international treaties of Ukraine, including by other Parties, ensuring the implementation of rights arising from such treaties for Ukraine, make proposals to the President of Ukraine or the Cabinet of Ministers of Ukraine to take the necessary measures to ensure the implementation of international treaties of Ukraine.	Ministry of Foreign Affairs of Ukraine	Not applicable
8	Law of Ukraine	... Responsibility for violations of	Cabinet of	International

	<p>on Ensuring Civil Rights and Freedoms, and the Legal Regime on the Temporarily Occupied Territory of Ukraine, April 27, 2014 (Art. 5)</p>	<p>human and citizen rights and freedoms provided for by the Constitution and the laws of Ukraine, which occur on the temporarily occupied territory, shall be placed on the Russian Federation as the occupying power in accordance with the norms and principles of international law.</p> <p>The Cabinet of Ministers of Ukraine shall institute permanent monitoring of compliance with human and citizen rights and freedoms on the temporarily occupied territory and shall, on the basis of results of the above-mentioned monitoring, publicize and provide relevant information to international organizations in the area of protection of human and citizen rights and freedoms and take necessary measures.</p> <p>The Human Rights Commissioner of the Verkhovna Rada of Ukraine [Ombudsman] shall carry out parliamentary control over adherence to constitutional human and citizen rights and freedoms on the temporarily occupied territory ...</p>	<p>Ministers of Ukraine</p> <p>Human Rights Commissioner of the Verkhovna Rada of Ukraine</p>	<p>organizations in the area of protection of human and citizen rights and freedoms</p>
9	<p>Law of Ukraine on the peculiarities of State policy on ensuring Ukraine's State sovereignty over temporarily occupied territories in Donetsk and Luhansk regions, January 18, 2018 (Art. 6)</p>	<p>The Cabinet of Ministers of Ukraine shall take all measures envisaged by the legislation of Ukraine to protect human rights and freedoms, in particular, carry out permanent monitoring of compliance with human and citizen rights and freedoms, publicize and provide relevant information to international organizations in the area of protection of human and citizen rights and freedoms, and takes the necessary steps to form an interdepartmental coordinating body to generalize the legal position of the state on the issue of countering and deterrence of the armed</p>	<p>The Cabinet of Ministers of Ukraine</p> <p>Human Rights Commissioner of the Verkhovna Rada of Ukraine</p>	<p>Interdepartmental Coordinating Body</p> <p>International organizations in the area of protection of human and citizen rights and freedoms</p>

		<p>aggression of the Russian Federation and the preparation of a consolidated claim of Ukraine to the Russian Federation on the implementation of its international legal responsibility for armed aggression against Ukraine.</p> <p>The Human Rights Commissioner of the Verkhovna Rada of Ukraine [Ombudsman] shall exercise parliamentary control over observance of constitutional human and citizen rights and freedoms on temporarily occupied territories in Donetsk and Luhansk regions and, if necessary, present to the Verkhovna Rada of Ukraine a special report on the state of observance of human and civil rights and freedoms on these territories.</p> <p>Ukraine shall not be responsible for the illegal actions of the Russian Federation or its occupational administrations on the temporarily occupied territories in Donetsk and Luhansk regions or illegal decisions taken by them.</p>		
10	<p>Regulation on Civil-Military Cooperation (CIMIC) of the Armed Forces of Ukraine, Approved by the Order of the General Staff of the Armed Forces of Ukraine, December 20, 2017, No. 446 (para 2.1.)</p>	<p>The main tasks of the of CIMIC of the Armed Forces of Ukraine, among others, are the following:</p> <p>... analysis of the socio-political situation in the areas of deployment (application) of the Armed Forces units of Ukraine, conducting of exercises (international exercises), location of units of the armed forces of other states, concentration and use of forces and summarizing of this information; ...</p>	<p>CIMIC Department of the Armed Forces of Ukraine</p>	<p>Not applicable</p>