



RESOLUTION ON UKRAINE

Three years since Russia's unrecognised 'annexation' of Crimea in violation of international law and the *de facto* control by pro-Russian armed groups of the self-proclaimed 'Donetsk People's Republic' and 'Luhansk People's Republic', the human rights situation in Ukraine continues to raise serious concerns. Over 10,000 people have been killed, hundreds of thousands displaced and more than 23,000 injured on all sides of the conflict since the beginning of the conflict in 2014¹. In the course of the crisis, dozens of journalists have been detained, kidnapped, tortured or otherwise harassed solely for carrying out their work. At least five journalists and two media workers have been killed.²

In Crimea, independent journalists are unable to work openly while journalists from mainland Ukraine have been denied access and turned away at the *de facto* border. Access to independent media from mainland Ukraine has been blocked. Journalists and bloggers critical of Russia's occupation and 'annexation' of Crimea face prosecution and prison sentences. The persecution and harassment of Crimean Tatars, who bear the brunt of the repression, has intensified. Many have been subjected to enforced disappearances and the Mejlis of the Crimean Tatar People, an elected representative body, has been arbitrarily banned as 'extremist'.³

In separatist-controlled areas, there have been several cases of harassment, torture, threats and detention of journalists by armed groups, without investigations or accountability for those responsible. Ukrainian broadcasting continues to be blocked and self-censorship among journalists and bloggers is rife.⁴

The challenge for the Ukrainian Government is to respect, protect and promote the right to freedom of expression while confronting external propaganda aimed at swaying the minds of Ukrainians at home or abroad, as well as the wider international community. Efforts to do

¹ Office of the United Nations High Commissioner for Human Rights (OHCHR), Report on the human rights situation in Ukraine 16 February to 15 May 2017, 13 June 2017 www.ohchr.org/Documents/Countries/UA/UAReport18th_EN.pdf

² Committee to Protect Journalists, Journalists killed in Ukraine since 1992: <https://cpj.org/europe/ukraine/>

³ UN High Commissioner for Human Rights, Press briefing notes on Crimean Tatars, 17 May 2016: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19970&LangID=E

⁴ OSCE Representative condemns continued deterioration of media freedom and safety of journalists in areas not controlled by Ukrainian government, 24 January 2017: www.osce.org/fom/295336

so have at times unduly restricted freedom of expression.⁵ Outlets perceived as pro-Russian or pro-separatist have faced harassment, including threats of closure or physical violence,⁶ while a number of Russian media executives and journalists have been banned from entering Ukraine as persons who represent, and propagate the policy of, the 'aggressor state'.⁷ It is critical for the Ukrainian authorities to remain steadfast in adhering to the principle of free expression and only impose restrictions that are necessary and proportionate and are defined in law.⁸

The crisis in Ukraine continues to highlight the historic and current threats to freedom of expression faced by linguistic minorities in the region.⁹ Although Russian, Ukrainian and Crimean-Tatar are the three official languages in Crimea, the use of Ukrainian as a language of education in schools across the peninsula has drastically declined since 2014, while the use of Crimean-Tatar and Ukrainian in the media has also shrunk considerably, with only one Crimean-Tatar newspaper allowed in circulation.¹⁰ Some minorities have raised concerns that the proposed new legislation to increase the use of Ukrainian in Ukraine would weaken their linguistic rights. The UN Special Rapporteur on Minority Rights has called for steps to be taken to ensure wide and meaningful consultation so that any new legislation meets, to the fullest extent, the rights and expectations of the highly diverse and distinct linguistic communities of Ukraine.¹¹

In the light of this situation, the Assembly of Delegates of PEN International calls on all parties to the conflict in Ukraine to:

- Do all within their powers to ensure a peaceful resolution to the conflict in Ukraine through peaceful dialogue and end the use of propaganda that is fuelling the violence;
- Comply with international standards on the protection of freedom of expression in areas under their control, as laid down in international humanitarian and human rights law;
- Ensure the release of all writers, journalists and media workers held for their legitimate work;

⁵ *Ukraine: Secretary General Jagland voices concern over blocking social networks and websites*, 17 May 2017: www.coe.int/en/web/secretary-general/-/secretary-general-voices-concern-over-blocking-social-networks-websites-in-ukraine

⁶ See Annexe for cases of concern

⁷ Disagreement with editorial line cannot result in violence against media; safety of journalists in Ukraine must be ensured, says OSCE Representative, 5 September 2016: www.osce.org/fom/262536

⁸ Permissible restrictions to freedom of expression are laid out in Article 19(3) of the International Covenant on Civil and Political Rights and Article 10 of the European Convention on Human Rights.

⁹ The right to use one's own language individually, and in community with others, is protected under international law eg Article 27, ICCPR, and

¹⁰ OHCHR, *Report on the human rights situation in Ukraine 16 February to 15 May 2017*, 13 June 2017 www.ohchr.org/Documents/Countries/UA/UAReport18th_EN.pdf and International Court of Justice, Press Release No 2017/15, 19 April 2017: www.icj-cij.org/files/case-related/166/19412.pdf

¹¹ *Report of the Special Rapporteur on minority issues*, Rita Izsák, Mission to Ukraine, A/HRC/28/64/Add.1, 27 January 2015: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/28/64/Add.1

- Investigate unlawful killings, enforced disappearances and attacks on journalists and other writers and to bring the perpetrators to justice;
- Recognise and protect the right of all those who speak minority languages to express themselves in the language of their choice, both orally and in writing and to have their culture valued, and their literature promoted and distributed, paying special consideration to ensuring that any new language legislation does not adversely affect their linguistic rights;
- Ensure that education reform respects, promotes and fulfils the linguistic rights of all language communities in Ukraine and does not discriminate against any community;
- Allow students to retain access to education in their mother tongue in addition to instruction in Ukrainian at all levels.

To the Russian Federation :

- Fully comply with the order of the UN International Court of Justice No. 2017/15 from 19 April 2017¹² that demands to duly respect the rights of Ukrainian and Tatar minorities in the Crimea, stop political repression in the annexed peninsula, and halt the covert financial, military, and political support of the militants in Donbas.

¹² <http://www.icj-cij.org/files/case-related/166/19412.pdf>

Annexe to the resolution on Ukraine

As set out in the resolution adopted at the 83rd PEN Congress at Lviv, Ukraine, at times outlets perceived as pro-Russian or pro-separatist have faced harassment, including threats of closure or physical violence, while a number of Russian media executives and journalists have been banned from entering Ukraine as persons who represent, and propagate the policy of, the 'aggressor state'.

Among others, journalist **Ruslan Kotsaba** was detained by the Security Service of Ukraine on 7 February 2015 and subsequently convicted for high treason for the publication of a video in which he called for ignoring mobilisation. In July 2016, he was acquitted on appeal. On 30 March 2017, the Supreme Court returned the case for a retrial, putting him at renewed risk of detention.

Journalist and media rights activist **Dmitry Vasilets** was detained following a journalistic visit to the Donbass region. He has been in pre-trial detention for almost two years, following his arrest by the Ukrainian Security Service on 24 November 2015.

The PEN International community stresses that the freedom of expression and freedom of the press extends also to ideas that may be perceived as offensive or running against state policy. It calls on the Ukrainian authorities to respect its obligations concerning the freedom of expression under international human rights law in its response to the Russian aggression on its territory.