

CRIMEAN PROCESS



PROBLEMS OF COMPLIANCE WITH FAIR JUSTICE STANDARDS IN POLITICALLY MOTIVATED CASES



2022



CONTENT

Introduction	3
Methodology	6
Case review	10
Case of Mustafa Dzhemilev	12
Case of journalist Vladyslav Yesypenko	20
Case of Kostyantyn Shyryng	29
Case of Jehovah's Witnesses	33
Case of abducted Rustem Osmanov	38
Case on the persecution of independent Crimean Tatar lawyers	42
Conclusions	50
Recommendations	56
List of sources	58

INTRODUCTION

This report was developed by an expert group which specializes in the analysis of the results of court monitoring of separate trials in Crimea, in the period of 2022. The subjects of monitoring were the cases that bear the signs of politically motivated persecution of a person or a group of persons. The research focus contains both the trials that started one or two years before the full-scale invasion and the first cases connected with the escalation of the Russian military aggression after February 24, 2022.

Since late February 2014, part of the Ukrainian territory – the Autonomous Republic of Crimea and the city of Sevastopol – has been occupied by the troops of the Russian Federation. Later on, in late March 2014, the authorities of Russia adopted Federal Constitutional Law #61 and changes to art. 65 part 1 of the Russian Constitution, according to which Russia proclaimed Crimea part of its territory. Since that time, the Russian Federation has exercised factual control over the territory of the peninsula where bodies of power that act on the Russian Federation's behalf were created.

Since March 18, 2014, the legislation of Ukraine was completely substituted for the legislation of the Russian Federation in occupied Crimea. Since the time stated above, the criminal and criminal procedural legislation of the RF started to be used during the consideration of criminal cases, and since May 5, 2014, the criminal legislation was granted retrospective action which resulted in the spreading of the RF Criminal Code on the deeds committed before the occupation.

The above-mentioned actions of the Russian Federation were defined on the international level and by Ukraine as the occupation of the Crimean peninsula. Respectively, Russia is responsible for adherence to human rights in this territory and has some responsibilities and restrictions stated in the Geneva Convention (IV) relative to Protection of the Civilian Population in Time of War of August 12, 1949.

The systematic aggravation of the human rights situation on the occupied Crimean peninsula has been noted in numerous reports of human rights organizations, resolutions and presentations of international and intergovernmental organizations since 2014. The complete lack of access to Crimea for international missions that observe the situation with the area of human rights and impossibility of work for human rights defending non-governmental organizations worsens the situation and interferes with protection of persons and groups of persons from gross human rights violations in Crimea.

The judicial system and fair justice play the key role in the support of democratic standards. In this regard, adherence to standards of fair justice, especially in cases on persecution of opposition (in politically motivated and religious cases) is an important indicator of the situation with human rights on the occupied peninsula and visual demonstration of the repression policy which the occupying power selected as priority and which it actively uses.

Undoubtedly, the fact of

INTRODUCTION

non-recognition by the Russian Federation the status of Crimea as an occupied territory and the spreading of Russian legislation on it impose many challenges for researchers and for international law in general when adherence to standards of fair justice in the conditions of an armed conflict is under research.

However, the situation with virtually complete absence of systemic research in the field of human rights in general and that of study of various aspects of Crimean legislation functioning since 2014 in particular indicates the necessity of regularity of such research due to the real circumstances that have currently developed in Crimea.

This report is a third work in this direction.¹ It concerns systemic analysis of separate aspects of functioning of the legislation system controlled by the RF in Crimea and adherence to some standards of fair justice and is a continuation of the research initiated in 2016 on the results of the long-term and comprehensive monitoring of trials on separate politically motivated cases based on direct observations.

The **TASK** of the report was not only to determine the level of adherence to international standards of fair justice in trials in Crimea but also to investigate the specificity of administering justice in the conditions of the armed conflict escalation, in particular, with the example of politically

motivated cases. One of the key research questions was the issue of the extent to which the judicial system created in the conditions of the occupation of Crimea provides protection from unlawful politically motivated persecutions of individuals or groups of individuals and from the oppression of human rights and freedoms in Crimea in the conditions of the full-scale armed conflict.

The **SUBJECTS** of monitoring and further analysis were five cases of politically motivated (in particular, religious) criminal persecutions in Crimea. Among them, cases connected with persecution of journalists, religious activists, leaders of the Mejlis of the Crimean Tatar people, participants of the civil blockade of Crimea and individuals who allegedly cooperated with the Ukrainian intelligence service were included proportionally.

Moreover, a complex analysis of processes on administrative offense against independent Crimean Tatar lawyers which resulted in the arrests of three lawyers was included into the research. It is noteworthy that all these lawyers had actively represented defendants' interests in politically motivated cases and received warnings such as 'the gloves are off and they will be treated according to the martial laws' earlier.

These cases were taken for observation due to the obvious political motif of the persecution and pressure on the lawyers' community, and also due to the fact that in this case, although it concerns persecution under the code of administrative offense, it is also because of the application of a sanction

¹ <https://crimean-process.org/krymskij-procress-problemy-soblyudeniya-standartov-spravedlivogo-pravosudiya-v-politicheski-motivirovannyh-delah-s-2016-po-2018-gg/>
та <https://crimean-process.org/obzor-problemy-soblyudeniya-standartov-spravedlivogo-pravosudiya-v-politicheski-motivirovannyh-delah-za-2018-2021-gody-eng/>

INTRODUCTION

connected with imprisonment, it can be equated with measures of criminal and legislative influence.

The terminology, concepts and definitions operated in the documents of international organizations (UN, Council of Europe, OSCE) and the terminology and names of bodies of power accepted in occupied Crimea after 2014 were used for the purposes of the report. Due to the factual spreading of the Russian legislation in the territory of Crimea from the spring of 2014, cases that were in the focus of the monitoring and research were qualified and observed by courts within the Russian legislation framework.

The report **does not provide** assessment of the political situation on the peninsula. The analysis is grounded on the principles and standards of international law. This report continues work on observation and analysis of the situation with politically motivated cases in Crimea and also with trials in such cases. The document is connected thematically to the first and second parts of the report 'Crimean Process: problems of adherence to the standards of fair justice

in politically motivated cases'.

The report is aimed at representatives of state bodies, media, general public and expert community of international structures and non-governmental organizations.

It can be useful as one of documenting elements of violation of articles 64-71 and other provisions of IV Geneva Convention relative to Protection of the Civilian Population in Time of War, serve for understanding of how the judicial system works in the conditions of the occupation of Crimea and also during analysis and study of the situation in concrete politically motivated cases.

Additionally, the report can be used by lawyers and victims of human rights violations during work with national courts and law-enforcement bodies, with the European Court of Human Rights, the International Criminal Court and other international mechanisms of human rights protection.

METHODOLOGY

THE OBJECTIVE OF THE RESEARCH:

The objective of the research is the analysis of the level of correspondence of trials in politically motivated cases in Crimea to international standards of fair justice, and detection of possible specific violations of the standards under the armed conflict escalation and the occupation.

MAIN TASKS:

The main tasks were:

- 1) to collect and analyze the amount of materials received as a result of monitoring of trials in 8 politically motivated cases in Crimea;
- 2) to evaluate:
 - adherence to the standards of fair court consideration during court observation of five politically motivated criminal cases and three cases on administrative offense against independent lawyers;
 - the level of ensuring the protection from unlawful politically motivated persecutions of separate residents or groups of residents of Crimea by the judicial system created under the occupation of Crimea, and also from oppression of rights and freedoms in politically motivated cases.

OBJECTS OF THE ANALYSIS:

The objects of the analysis were 8 trials (5 criminal and 3 administrative), selected with the consideration of criteria presented below. It is important to specify that the

² trial by an independent and impartial court; public consideration; Equality of the parties, presumption of innocence.

experience of the OSCE³ and OHCHR⁴ methodologies in the area of justice monitoring was taken as the basis of the criteria formation.

CRITERIA FOR CASE SELECTION:

1. Cases that meet the criteria of politically motivated persecutions: Cases that meet one or several criteria listed below are defined as politically motivated cases for the purposes of this report:
 - Cases in which persecution of individuals is conducted with violating one of fundamental rights guaranteed by the ECHR and its protocols, particularly the freedom of thought, conscience and religion, freedom of speech and information and the freedom of assembly and association;
 - Cases in which persecution of individuals is conducted due to exclusively political reasons with no connection to any offense;
 - Cases in which persecution of individuals is conducted exclusively for non-violent activity aimed at the protection of human rights and fundamental freedoms;
 - Cases in which, due to political motifs, the duration of imprisonment, detention conditions and the punishment do not obviously correspond with the level of the offense which the individual is accused or suspected of;

³ Trial Monitoring. A Reference Manual for Practitioners / Office for Democratic Institutions and Human Rights (ODIHR), 2012

⁴ <https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawVettingen.pdf>

METHODOLOGY

- Cases in which persecution of individuals and/or groups of individuals in Crimea is done on the basis of the criminal legislation of the RF for the deeds that do not serve as a cause for criminal persecution in Ukraine (for example, accusation of extremism and separatism, and also persecution of groups of individuals whose activity is not prohibited in Ukraine);
 - Cases in which sentencing on the accusation connected with the support (real or imaginary) of Ukraine as a side of the conflict was held with violation of fundamental guarantees of international humanitarian law (in the part of provisions of art. 5, 8, 47, 147 of the Geneva Convention (IV) relative to Protection of Civilian Population in Time of War of August 12, 1949);
2. A court consideration on the merits took place in courts in the territory of Crimea.
 3. A court consideration in two judicial authorities was completed in the period until December 2022;
 4. The information is present, according to the results of attendance, about at least 30% of the total number of hearings in the case;
 5. A sufficient amount of information and materials was collected for further analysis of each case.
- case of Kostyantyn Shyryng (on the criterion: the process on accusation connected with support of Ukraine took place with violation of fundamental guarantees of international humanitarian law);
 - case of Mustafa Dzhemilev (on the criteria: a) persecution of individuals is conducted with violating one of fundamental rights guaranteed by the ECHR and its protocols, in particular, freedom of speech and information and also freedom of assembly and association; b) persecution of persons is done on political reasons exclusively and with no connection to any offense; c) persecution of persons is done exclusively due to their non-violent actions aimed at protection of human rights and fundamental freedoms);
 - case of Vladyslav Yesypenko (on the criteria: a) persecution of individuals is done with violating one of fundamental rights guaranteed by the ECHR and its protocols, in particular, freedom of speech and information; b) persecution of persons is done due to political reasons exclusively and with no connection to any offense; c) the process on the accusation connected with support of Ukraine was conducted with violation of the fundamental guarantees of international humanitarian law);
 - case of Jehovah's Witnesses (on the criteria: a) persecution of individuals is done with violating one of fundamental rights guaranteed by the ECHR and its protocols, in particular, freedom of opinion, conscience and religion; b) persecution of persons in Crimea is done on the basis of the criminal legislation of the RF for actions that are not punishable in Ukraine);

LIST OF CASES:

In correspondence with the criteria listed above the following cases were selected:

METHODOLOGY

- case of Rustem Osmanov (on the criterion: persecution of persons is done due to political reasons exclusively and with no connection to any offense);
- case on the persecution of independent Crimean Tatar lawyers⁵(on the criteria: a) persecution of individuals is done with violating one of fundamental rights guaranteed by the ECHR and its protocols, in particular, freedom of opinion, conscience and religion, and also freedom of speech and information; b) persecution of persons is done exclusively for their non-violent actions aimed at protecting human rights and fundamental freedoms; c) persecution of individuals/groups of individuals in Crimea is done on the basis of the criminal legislation of the RF for actions that are not punishable in Ukraine).

DATA COLLECTION:

Work on collecting and systematizing relevant information about the selected trials was done with the help of the following resources:

1. Materials of judicial monitoring by the 'Crimean Process' initiative group. The monitoring materials were selected on the basis of questionnaires of trial monitoring during the actual attendances. The questionnaire developed with the consideration of the OSCE approaches contained more than 40 questions about various aspects of fair trial. The answers to

the questions became the primary material for the systematization of the trials monitoring data.

In total, the group of experts analyzed the observation results received during 111 trials in 6 Crimean courts.

2. The results of interviews and written explanations. The interviews were held in oral and written form with the actual monitors and participants of the trials. The collection of information was held by experienced interviewers and journalists according to the principles of fact collection.

3. The analysis of audio, video and photo materials. The information was collected from available sources: official websites of the courts, different media, private archives, audio recordings made by the monitors and the lawyers.

4. The results of analysis of internet publications and printed materials. A search of publications connected with coverage of trials posted on the Crimean and Russian media, informational agencies, internet outlets, on the websites of TV channels (at least 132 publications in 62 sources) was conducted.

5. Other sources of information, in particular, the documents of international structures, information from the websites of the Ukrainian authorities, Russia and Russia-controlled authorities in Crimea.

⁵ these are administrative offences involving deprivation of liberty, which, according to the position of the Constitutional Court of the Russian Federation, "is comparable to measures of criminal law enforcement", <http://sutyajnik.ru/documents/4788.pdf>

METHODOLOGY

METHODS AND KINDS OF ANALYSIS:

In their work, the group of experts used multi-staged analysis of the available data set. The collected information and facts were systematized and analyzed in order to draw a credible picture on adherence to separate standards of fair justice and to present either proof or disproof of hypotheses and conclusions.

Methods and kinds of analysis:

1. Systematization of the monitoring questionnaires during trials, structuring of information from the monitoring questionnaires in accordance with four separate standards of a fair trial:

- court consideration by an independent and impartial court;
- public consideration;
- equality of the parties;
- presumption of innocence.

The mentioned standards were chosen based on their significance for administering fair justice and completeness of the information collected by the group. At this, problems with adherence to other standards of justice in the cases selected for the research are not excluded.

2. The analysis of the whole set of the structured information on the number of violations of standards of fair justice in total and for each case separately.

3. A content-analysis of information from the media and other collected sources in the part of coverage of cases selected for the research.

4. The assessment of the actions and behaviour of the representatives of the Russia-controlled Crimean judicial power regarding the adherence to standards of fair court consideration, and also a possible influence of other circumstances, statements and actions of the authorities on the course of the trials.

5. A comparative analysis of the trial monitoring results and additionally collected information regarding the course of trials and their correspondence to international law and human rights standards.

NOT SUBJECTED TO THE ANALYSIS:

The following issues were not subjected to the analysis:

- evidence of the parties, the grounds of the charge and the verdicts issued;
- procedural violations of the RF legislation;
- standards of access to fair justice, except 4, which were included in the focus of the research;
- other violations of human rights and norms of international law.



SPECIAL FORCES OF THE BAILIFFS' COURT SERVICE GUARD THE ENTRANCE TO THE COURT BUILDING WHERE A HEARING ON A POLITICALLY MOTIVATED CASE IS TAKING PLACE, MARCH 2022

The year was marked by the intensification of politically motivated persecutions in Crimea prior to and after the start of the full-scale invasion. This is explained with two parallel reasons: a) the law enforcement in Crimea needed to frighten the population in the territory of the occupied peninsula in order not to have further risks of destabilization of the situation in the frontline region; b) a part of the residents of the newly occupied territories were forcibly transported to Crimea to legalize their criminal persecution for their involvement in actions aimed at support of Ukraine.

Within the framework of trends in frightening the local population and activists, the case in point is a planned, synchronized by the time and actions, attack at independent Crimean Tatar lawyers who were media persons and regularly covered the facts of tortures, abductions and falsifications of criminal cases by the FSB officers. The examples of criminal

persecution include the case of civil journalist and human rights defender Iryna Danilovych, who was abducted on April 29, 2022, and accused of storage of an explosive, and this example captures the essence of these processes most. The case was not included in this review due to a long-term process of appealing the verdict.

The second trend connected with the legalization of persecutions of persons from the newly occupied territories started to gain momentum in the summer of 2022 and is represented in the report with a review of a case against resident of Kherson region Rustem Osmanov whom armed people abducted directly from his household, applied tortures to him, beat him and later transported him to Crimea where he was indicted for an alleged membership in the Crimean Tatar

REVIEW OF POLITICALLY MOTIVATED CASES OF 2022



POLICE DETAIN LAWYER EMINE AVAMILEVA BEFORE THE START OF THE TRIAL OF ANOTHER DETAINED LAWYER, MAY 22

voluntary battalion named after Noman Chelebidzhikhan. A similar process was observed against another resident of Kherson region Ruslan Abdurakhmanov and retired serviceman from Berdyansk – Oleksiy Kyselyov. However, the arrival of the main part of cases of this type to courts is expected only by the middle or the end of 2023.

It is also noteworthy that on the background of these two trends, planned persecutions

characteristic of 8 previous years of the occupation of Crimea have not stopped. In particular, the process in absentia against national leader of Crimean Tatars Mustafa Dzhemilev was completed, along with the processes on Kostyantyn Shyring accused of his connections with the Ukrainian intelligence service and journalist Vladyslav Yesypenko, and also religious persecution of the next group of followers of the 'Jehovah's Witnesses' religious doctrine.

CASE OF MUSTAFA DZHEMILEV

DESCRIPTION OF EVENTS:

Mustafa Dzhemilev is an influential politician among Crimean Tatars and a human rights defender widely known in international circles. In 2013, his son Khayser Dzhemilev committed an involuntary homicide with a carbine registered on Mustafa Dzhemilev's name. After this, the investigative bodies of MIA of the Autonomous Republic of Crimea initiated a separate proceeding on careless handling of rifled firearm.

At the moment when the occupation of Crimea began, Mustafa Dzhemilev took a clear stance of support of territorial integrity of Ukraine. On May 2, 2014, he was invited to negotiations into the Kremlin, but instead the Russian border guards announced him a ban on entry at the airport. On the same day, he declared his intention to come to Crimea which he does not consider Russian territory.

On May 3, 2014, several thousands of Crimean Tatars gathered not far from the entry to the city of Armyansk in order to provide a safe arrival of Mustafa Dzhemilev. A line of unknown persons appeared in front of them who soon claimed to be the officers of OMON (a special unit of the Russian police). At some moment one of these unknown people started to shoot into the air and the people broke through this line. They gathered on the territory which soon was converted into the 'Armyansk' checkpoint by the border management of the FSB. At that period it contained several tents and a traffic police post. Mustafa Dzhemilev arrived at the territory.

At the time considerable military and other law enforcement forces were brought from

the side of Armyansk that lined up in a row in order not to let several thousands of people and Mustafa Dzhemilev go to the direction of Armyansk. After long negotiations a compromise was reached: Dzhemilev leaves the territory in the direction of Kherson region, and the people who met him, receive an opportunity to return in the direction of Crimea.

In 2016, the Investigative committee of the RF in the Republic of Crimea initiated a case on art. 322 against Dzhemilev for illegal crossing of the state border by a person who is banned entry on the territory of the RF, and also on art. 224 for careless storage of firearm and art. 222 storage of carbine cartridges as ammunition banned for civil circulation. In 2020, investigation of this criminal case was completed and transferred to the court on June 9. Dzhemilev himself assessed this as correspondent actions of the Russian authorities to his plans to organize a peaceful march of Crimean Tatars to Crimea that was annexed at the beginning of 2020.



A group of Crimean Tatar activists near the Armyansk City Court during a hearing in the politically motivated case against Mustafa Dzhemilev



CASE OF MUSTAFA DZHEMILEV

THE TRIAL:

Court of first instance:

Armyansk city court

Judge:

Isroilova Venera Ulugbekivna

Prosecutors:

Golovanova E. S., Khomenko Mykyta Viktorovich, Saddykova Minigul Shevketivna, Marchenko Anton Oleksandrovykh

Lawyers:

Polozov Mykolai Mykolayovych, Azamatov Ayder (after the beginning of the full-scale invasion)

Dates of hearings:

25.06.2020 - 22.04.2022

Results of consideration:

2-year suspended sentence with eradicating the conviction due to amnesty on art. 322, 222 and 224 to exempt from punishment due to the expiration of the limitation period

Court of appeal:

Supreme court of Crimea

Judges:

Mikhaylov Dmytro Olegovych (presiding), Glukhova Yevgenia Mykhaylivna, Latynin Yuri Anatoliyovych

Prosecutor:

Gorb Bogdan Vyacheslavovych

Lawyer:

Ayder Azamatov

Dates of hearings

26.05.2022

Results of consideration:

To cancel the suspended sentence on amnesty, to impose punishment of 4 years of imprisonment and a fine of 20 000 rubles.

The main violations of separate standards of fair justice:

CASE OF MUSTAFA DZHEMILEV

CONSIDERATION BY AN INDEPENDENT AND IMPARTIAL COURT

1. Mustafa Dzhemilev is a Ukrainian politician who consistently stands for the de-occupation of Crimea and restoration of the territorial integrity of Ukraine. Considering these circumstances, in order to evaluate the impartiality of the court, it is a matter of special importance whether the judges who participated in the consideration of the case are former Ukrainian judges, participants of criminal cases in the territory of Ukraine, accomplices of the facts of human rights violations or political persecutions in the occupied territory of Ukraine.

Judge **Isroilova Venera Ulugbekivna** is a former judge of Ukraine (Armyansk city court of the Autonomous Republic of Crimea) who betrayed oath. In June 2015, the Prosecutor General's Office of Ukraine initiated a criminal proceeding against her on the fact of committing a crime under part 1 art. 111 of the Criminal Code of Ukraine (high treason). As a judge, she earlier participated in persecution of Osmanov Edem on art. 318 of the RF criminal code because he, together with other Crimean Tatars, had arrived to meet Mustafa Dzhemilev near the city of Armyansk and allegedly attacked a police officer.

Judge **Glukhova Yevgenia Mykhaylivna** is a former judge of Ukraine (Razdolnoe district court) who betrayed oath. In June 2015, the Prosecutor General's Office of Ukraine initiated a criminal proceeding against her on the fact of committing a crime under part 1 art. 111 of the Criminal Code of Ukraine (high treason). In a court of appeal,

Glukhova considers cases since April 2022 and has taken part in consideration of appeals in cases against 2 representatives of the Crimean Tatar battalion named after Noman Chelebidzhikhan and also against some unidentified persons accused of an intention to commit acts of terrorism (among these, extension of restraint measure is possible against Ametkhan Abdulvapov who is persecuted for his religious beliefs). Another circumstance is noticeable: before her transition to the supreme court of Crimea, judge Glukhova considered a case in Saki district court against the owner of the TES gas stations Sergii Beym on a deadly car accident. One week after the case was terminated, she finished her activity in Saki district court and in a month she became a judge of the Supreme court of Crimea.

Judge **Latynin Yuri Anatoliyovych** is a former judge of Ukraine (the District administrative court of the ARC) who betrayed oath. In June 2015, the Prosecutor General's Office of Ukraine initiated a criminal proceeding against him on the fact of committing a crime under part 1 art. 111 of the Criminal Code of Ukraine (high treason). He was declared



Lawyer Mykola Polozov before the court hearing in the case against Mustafa Dzhemilev

CASE OF MUSTAFA DZHEMILEV

wanted by the SBU. In 2017, he sanctioned an attack on lawyer Mykola Polozov within the framework of a criminal case against deputy head of the Mejlis of the Crimean Tatar people Ilmi Umerov. In 2018, with obvious violations (refusal to provide an interpreter), he was considering an appeal to the court judgment on Ukrainian activist Larysa Kytayska. In August 2019, he considered an appeal on the extension of restraint measure to Crimean Tatar blogger Nariman Memedeminov (the judgment remains in effect without change).

Mykhaylov Dmytro Olegovych presiding in a court of appeal has considered cases in the Supreme court since 2021. On September 16, 2021, he took part in consideration of an appeal on the verdict to activist of the Crimean Tatar movement Edem Bekirov.

These features of the judges' biographies could affect the judgments since the defendant is a Ukrainian political activist who has consistently stood for the deoccupation of Crimea, criminal responsibility for the people involved in repressions against Crimean Tatars and international non-recognition of the Russian jurisdiction in the occupied territory.

In such circumstances, the independence and impartiality of the judges, who are participants of criminal cases in Ukraine or involved in repressions against Crimean Tatars, raise grounded doubt.

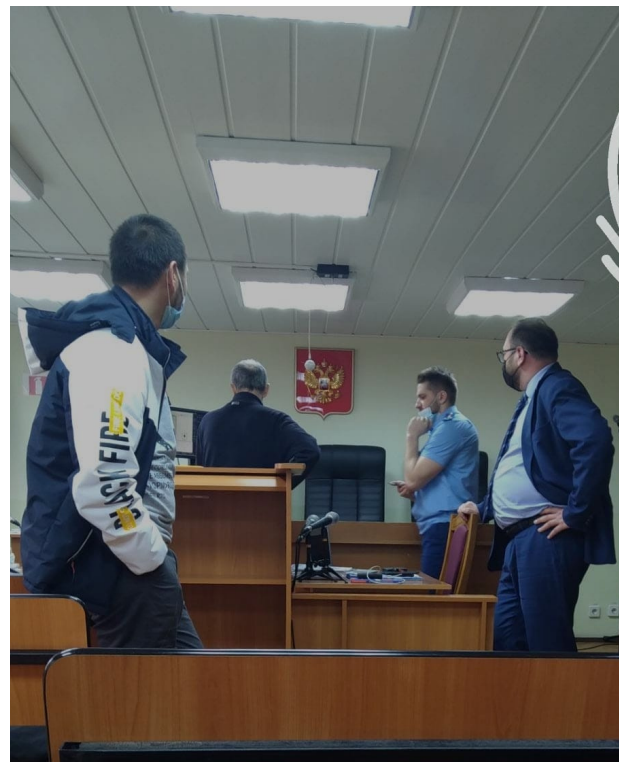
2. The following circumstances may additionally indicate the judges' dependence in issuing the verdicts in this case:

a) during consideration in a court of the first instance, 2 recusals of the judge were

requested due to their interest in the case result. Apart from that, the defense repeatedly protested the actions of the presiding judge.

b) Despite a considerable amount of the case materials, it took the judge of the first instance 4 days to stay in the deliberation room in order to evaluate the evidence and issue the verdict, which looks insufficient for preparation of an independent and balanced decision with the consideration of the circumstance that 58 hearings had been held on the case, at least 36 witnesses had been interrogated, more than 100 video files had been viewed, at least 6 expertises had been studied.

c) Before the oral argument, the judge of the first instance asked questions to the defender if the party wished to use the



Waiting for an internet connection to interrogate a prosecution witness via a video link system

CASE OF MUSTAFA DZHEMILEV

right for amnesty. And later she herself used amnesty during issuing the verdict. This can indicate that the judge had already been aware of the essence of the verdict prior to the debate.

d) Consideration of the appeal took about 2 hours, which looks insufficient for comprehensive and independent investigation of the circumstances described in the appeal.

PUBLIC CONSIDERATION:

1. All hearings in the court of the first instance in this trial (except the previous hearings) took place in the open mode. This may indicate that the court was oriented at the publicity of the trial in the first instance. At the same time, it is noteworthy that the judge had limited the number of members of the public in the court room to 4 due to the existing recommendations on prevention of spreading the coronavirus infection. The verdict was pronounced in the full extent in the court of the first instance, the text of the verdict was published on the official website of the court, which also indicates the court's aspiration to publicity in the process.

2. However, despite this, significant violations were recorded in the field of openness and publicity of the proceeding during the process:

- On April 16, 2021 during yet another hearing, the court denied the motion of a civil journalist of 'Grani.ru' on allowing video and photography. The judge refused on the basis that the reporter had not presented any documents about the media's registration, however the law does not define the necessity of

application of such documents.

- On August 23, 2021, the police of the city of Armyansk, under the pretext of conducting counter-terrorist trainings, banned taking videos near the court building. When the police officers were demanded to show documents that introduce such restrictions in the city, they refused.
- On August 27, 2021, during yet another hearing, judge Venera Isroilova denied a motion of a civil journalist of 'Grani.ru' to allow video and photography of the trial.
- On March 24, 2022, prior to the start of the next hearing, judge Venera Isroilova limited the number of 4 members of the public (defined with a separate decision within the framework of the case) to 2, without explanation. As a result, civil journalist of the 'Crimean Solidarity' Ibrish Nazlymov was unable to arrive at the court proceedings.



Police forbid to record an interview with a lawyer after a regular court hearing

CASE OF MUSTAFA DZHEMILEV

3. Consideration of the case in a court of appeal completely contradicted the principles of publicity and openness of the proceeding:

- Consideration of the appeal took place without members of the public – the court bailiffs had not allowed the audience into the court building, referring to the measures of restriction connected with the coronavirus infection.
- Announcement of the judicial ruling on the results of consideration of the appeal on the decision of the court of the first instance took place without the audience. This indicates violation of paragraph 1 art. 6 of the ECHR: '...Judgment shall be pronounced publicly...' And the ruling published on the official website of the court does not contain the motivational part of the judgment of the court of appeal.

EQUALITY OF THE PARTIES:

1. The defendant was deprived of a possibility to participate in the trial in person. On the hearing on March 5, 2021, the text of the FSB's reply to the invoice of Armyansk city court was read, according to which the ban on entry to Russia issued in March 2014 was extended to 15 years on March 5, 2019 by the FSB's decision. Insofar as the Russian authorities spread the jurisdiction of their decisions to the territory of Crimea as well, the defendant was deprived of an opportunity to participate in the trial.

2. During the court investigation in the first instance, the parties raised at least 38 motions that are important for the proof of

their positions. Out of these, the state prosecution's motions were denied in 12,5% of cases (2 motions of 8 given), the defense's motions were denied in 70% of cases (21 motions out of 30 given).

3. Also, during the court investigation, selectivity of the court was recorded in applying coercive procedural measures. So, on November 13, 2020, the judge demanded to bring prosecution witness Ervin Ibragimov coercively. And on August 23, 2021, the court denied a motion of the defense about the coercive arrival of witness of defense Sergii Abisov, by which it deprived the defense the possibility to interrogate the key prosecution witness on violation of the state border crossing procedure.

4. The defense was deprived of the opportunity to question important witnesses in the case: Refat Chubarov, Lenur Islyamov, Akhtem Chyygoz and Mykhaylo Sheremet who was deputy of the State Duma of the RF at the time of the court proceeding. On April 29, 2021, the court denied these motions of the defense since the court did not have proof that the above-mentioned persons were



Prosecution and defence before the next court hearing

CASE OF MUSTAFA DZHEMILEV

really participants in the events. At the same time, the enlisted persons are present in the case materials, Lenur Islyamov's car was confirmed to have been present on the setting, and all the witnesses claimed for the interrogation are on the video files presented in the case.

5. The court declined the motion on calling witness Khayser Dzhemilov with the help of interstate address twice, which indicates violation of standards of adversarial parties which, according to the ECHR's position, provides equal opportunities for the parties to present evidence.

6. The court denied the defense's motion about examination of the material evidence in the case. This indicates violation of standards of adversarial parties which, according to the ECHR's position, provides balanced opportunity for the parties to become familiar with all the presented evidence.

7. Also, during the court investigation, selectivity of the court was recorded in appointing expertise after the parties' motions. So, on November 18, 2021, the court granted the motion of the prosecution on conducting an additional forensic ballistic examination of the ammunition, illegal storage of which Dzhemilev is accused of. Prior to this, on April 29, 2021, the court denied the defense in conducting photo portrait examination of several persons, and in conducting photo portrait and phonoscopic examination of the defendant.

PRESUMPTION OF INNOCENCE:

1. Since the defendant did not participate in the court proceedings, the main violations of this standard were recorded in the part of coverage of the trial.
2. An unrestrained campaign on the media can have a negative impact on the fairness of the proceeding, influencing the public opinion and pushing the court to certain judgments. At least 63 publications which can be attributed to this category were recorded. During the trial, a significant number of the media posted political statements on behalf of high ranking officials of Crimea about the defendant's involvement in the water blockade, and also that they assess his actions as a crime.⁶

ПРИМЕЧАНИЯ★RU

Крым направит иск о блокаде в отношении Джемилева, Чубарова Сенченко

Власти республики считают украинских политиков ответственными за водную блокаду полуострова

28.03.2021 В 12:52 АВТОР: ДМИТРИЙ БУГАЙ



Crimea to File Blockade-based Lawsuit Against Dzhemilev, Chubarov and Senchenko, Primechanya

⁶ <https://primechaniya.ru/sevastopol/novosti/krym-napravit-isk-o-blokade-v-otnoshenii-dzhemileva-chubarova-i-senchenko/>

CASE OF MUSTAFA DZHEMILEV

Moreover, this list contains non-objective publications about the trial that show only the prosecution's version, which contradicts professional media standards which require receiving commentaries from the other party.

In at least 6 outlets, the use of insulting and humiliating language was recorded during coverage of the trial, in particular, the expressions like 'boss fugitive', 'extremist', 'cat burglar'⁸ (a thief that breaks into a household through a 'cat window' – reference to the defendant's short height and physique.)

**ПОЛИТ
НАВИГАТОР**

О проекте Форум

EN RU

В Крыму амнистировали экстремиста Джемилева

Любовь Смирнова. 22.04.2022 15:48 (Мск), Симферополь

Просмотров: 6314

Дзен, Крым, Меджлис, Россия, Украина



Городской суд Армянска вынес приговор по делу беглого главаря запрещенного в России за экстремизм крымско-татарского меджлиса Мустафы Джемилева.

Его признали виновным по трем статьям, дали 2 года условно, но тут же освободили от ответственности по амнистии, передает корреспондент «ПолитНавигатора».



Extremist Dzhemilev amnestied in
Crimea, Politnavigator

⁷ <https://www.politnavigator.net/v-krymu-amnistirovali-ehkstremista-dzhemileva.html>

⁸ <https://www.novoross.info/krim/65022-byvshiy-vor-fortochnik-dzhemilev-ugrozaet-vygnat-russkih-lyudey-iz-kryma.html>

Коммерсантъ

Подпис
на наш

Происшествия
22.04.2022, 18:29

В Крыму осудили и амнистировали лидера Меджлиса Джемилева

Суд Армянска в Крыму признал виновным в экстремизме лидера запрещенного в России Меджлиса крымскотатарского народа Мустафу Джемилева и освободил его от ответственности по амнистии, сообщили «Ъ» в пресс-службе суда.



Самые важ

Armyansk Court in Crimea Found
... Mustafa Dzhemilev Guilty of
Extremism, Komersant

Spreading untrue information was recorded in two media outlets : the 'Novaya Gazeta' informed that the court had banned the defendant entry to Crimea,⁹ and the 'Kommersant' wrote that Dzhemilev was convicted of extremism.¹⁰ Also the 'Russian Gazette' used a manipulation when in its article about a possible deportation of Russians from Crimea, without a reference to the primary source, it informed that the defendant had also done such statements repeatedly.

⁹ <https://novayagazeta.ru/articles/2021/03/06/eks-glave-medzhliisa-krymskotatarskogo-naroda-zapretili-vezd-v-rossiiu-domarta-2034-goda>

¹⁰ <https://www.kommersant.ru/doc/5326238>

CASE OF JOURNALIST VLADYSLAV YESYPENKO

DESCRIPTION OF EVENTS:

Vladyslav Yesypenko was a freelance journalist of the 'Krym.Realii' project, a structural unit of the 'Radio Liberty' international media corporation. From time to time, he visited Crimea, collected information on the editorial tasks, video recorded various locations and interviewed Crimean residents on socially important topics.

On March 10, 2021, Yesypenko's car was stopped by the traffic police officers on the Angarsky pass, he was forced to get out of the car and put on the pavement by unknown persons in balaclava hats. The people who introduced themselves as FSB officers forced his passenger Yelyzaveta Pavlenko, who travelled with him, to get into a different car and took her to her household where a search was conducted at once. Meanwhile, Yesypenko's whereabouts remained unknown for a long time.

On March 12, a court hearing took place on selecting a restraint measure to Vladyslav Yesypenko in connection with a suspicion of a crime under art. 223.1 'Illegal manufacturing of explosives, illegal manufacturing, processing or repair of explosives'. Lawyer Emil Kurbedinov hired by Yesypenko's wife was not informed timely about the date and time of the hearing and was able to arrive neither to the court nor to the detention unit to see his client. On March 15, an FSB investigator informed that the journalist had refused from Kurbedinov's legal assistance but a written refusal was not demonstrated.

On March 17, Yesypenko, being in the FSB



Vladyslav Yesypenko after his detention and torture by the FSB, photo: FSB RF

building, was interviewed by Oleg Kryuchkov of the 'Crimea 24' TV channel, in which he confirmed working for Ukrainian special services and storage of a self-prepared explosive. In this period, like before, independent lawyers Emil Kurbedinov and Oleksii Ladin were not allowed to him. He was able to meet with his defenders only on April 6 and informed at once that he had been subjected to tortures and forced to incriminate himself.

According to a text signed by Yesypenko, the FSB officers had planted a grenade into his car, and after his detention they drove him somewhere for an hour, with a bag on his head. When a bag was removed from Yesypenko's head, he saw that he was in a basement surrounded by several people wearing balaclava hats. Next, he was forcibly undressed, put on the floor, and two loops with wires were attached to his ears. They put a current through the wires. He was tortured in such a way all night, he was questioned about connections with special services of Ukraine. The tortures with the current were shifted with beatings, and, as Yesypenko says, they beat him not in the head but tried to hit his stomach, legs and groin. By the dawn, he gave

CASE OF JOURNALIST VLADYSLAV YESYPENKO

evidence on a video camera and signed some papers. After that Yesypenko was driven to investigative actions without his lawyer to the district of the city of Armyansk where he had allegedly taken a grenade out of a storage. Also the FSB officers persuaded him to refuse from the hired lawyers and admit his cooperation with Ukrainian special services during an interview to a Crimean journalist.

In late May, the investigation of the criminal case was completed. Vladyslav Yesypenko was charged with a crime under two articles of the criminal code: 222.1 of the RF criminal code 'Illegal purchase, transfer, sale, storage, transportation, sending or carriage of explosives or explosive devices', 223.1 RF criminal code 'Illegal manufacturing of explosives, and illegal manufacturing, processing or repair of explosive devices'.

THE TRIAL:

Court of first instance:	Simferopol city court
Judge:	Berberov Dlyaver Memetovych
Prosecutors	Zaytsev Sergii Mykolayovych (prosecutor of Simferopol district), Podolna Olena Viktorivna
Lawyers:	Ladin Oleksii Oleksandrovych, Omelchenko Taras Volodymyrovych, Dinze Dmytro Volodymyrovych

civil defender:	Kushch Pavlo Mykolayovych
Dates of hearings:	06.07.2021 - 16.02.2022
Results of consideration	6 years of imprisonment and a fine of 110 000 rubles

Court of appeal:	Supreme court of Crimea
-------------------------	-------------------------

Judges:	Glukhova Yevgenia Mykhaylivna (head of the board), Grebennikova Natallya Oleksandrivna, Tsorayeva Yulia Mykolayivna
----------------	---

Prosecutor:	Ametova Dilyara Serverivna
--------------------	----------------------------

Lawyers:	Omelchenko Taras Volodymyrovych, Dinze Dmytro Volodymyrovych
-----------------	--

Date of hearing:	18.08.2022
-------------------------	------------

Results of consideration:	5 years of imprisonment and a fine of 105 000 rubles
----------------------------------	--

CASE OF JOURNALIST VLADYSLAV YESYPENKO

Main violations of separate standards of fair justice:

CONSIDERATION BY INDEPENDENT AND IMPARTIAL COURT:

1. Vladyslav Yesypenko was a freelance reporter of the 'Krym.Realii' outlet that is one of Ukrainian branches of the international 'Radio Liberty' media corporation and constantly covers the issues of human rights violations in the occupied territory, facts of violation of norms of international humanitarian law, war crimes committed in Crimea and also spreads the official statements made by the Ukrainian authorities in connection with the processes of deoccupation of Crimea. With the consideration of these circumstances for the evaluation of the court's impartiality the matter of special significance is whether the judges who participated in the consideration of the case are former judges of Ukraine, participants of criminal cases in the territory of Ukraine, accomplices in the facts of human rights violations or political persecutions in the occupied territory of Ukraine.

The judge in the court of the first instance **Berberov Dlyaver Memetovych** is a former judge of Ukraine (Simferopol district court of the ARC) who betrayed oath. In June 2015, the Ukrainian Prosecutor General's Office initiated a suspicion on the fact of committing a crime under part 1 art. 111 of the Criminal code of Ukraine (high treason).

This judge participated in consideration of cases on administrative offense against some Crimean Muslims who had come out to the roadside with one-man pickets in 2017.

Head of the board in the court of appeal, judge **Glukhova Yevgenia Mykhaylivna** is a former judge of Ukraine (Razdolne district court of the ARC) who betrayed oath. In June 2015, the Ukrainian Prosecutor General's Office initiated a criminal case against her on the fact of committing a crime under part 1 art. 111 of the Criminal code of Ukraine (high treason). In the court of appeal, Glukhova considers cases since April 2022, and has participated in the consideration of appeals in cases against 2 representatives of the Crimean Tatar battalion named after Noman Chelebidzhikhan and also against unidentified persons on the accusation of their intention to commit acts of terrorism (among these, extension of restraint measure is possible for Ametkhan Abdulvapov who is persecuted for his religious beliefs). Also, the circumstance that before transfer to the Supreme court of Crimea, Glukhova considered the case against the owner of the TES gas stations Sergii Beym about a deadly car accident in Saki district court, draws attention. A week after the termination of the case, she finished her work in Saki district court and in a month she became a judge in the Supreme court of Crimea.

Member of the judge board in the court of appeal, judge **Tsoraeva Yulia Mykolayivna** used to have the surname

CASE OF JOURNALIST VLADYSLAV YESYPENKO

Chesnokova and is a former judge of Ukraine (Kerch city court of the ARC), who betrayed oath. In June 2015, the Ukrainian Prosecutor General's Office initiated a criminal case against her and issued a suspicion on the fact of committing a crime under part 1 art. 111 of the Criminal code of Ukraine (high treason). In the court of appeal, Tsoraeva (Chesnokova) was included in the judge board during consideration of such politically motivated cases as the persecution of head of the Mejlis of the Crimean Tatar people Refat Chubarov, and the consideration of an appeal on the verdict in a criminal case against activist of the Crimean Tatar national movement Edem Bekirov.

Member of the judge board in the court of appeal, **Grebennikova Natalya Oleksandrivna** is a former judge of Ukraine (Bilohirsk city court of the ARC) who betrayed oath. In June 2015, the Ukrainian Prosecutor General's Office initiated a criminal case against her and issued a suspicion on the fact of committing a crime under part 1 art. 111 of the Criminal code of Ukraine (high treason).

These peculiarities of the judges' biographies could influence the verdicts issued since the defendant is a staff member of the Ukrainian branch of an international media which has systemically covered the issues of repressions against Crimean Tatars, war crimes in the occupied territory, human rights violations and activity of Ukraine aimed at punishment of those committing the mentioned crimes. In such circumstances, the independence and impartiality of the judges who are participants of criminal cases in Ukraine and

are mostly involved in repressions against Crimean Tatars raise grounded doubt.

2. The following circumstances can additionally indicate the judges' dependence in issuing verdicts in the cases:



Vladyslav Yesypenko is taken out of court after the end of the regular hearing in his case

- the judge removed the audience from the court room when interrogations of FSB officers were conducted, announcing this part of the hearings to be held in a closed mode with no grounds.
- The duration of the judge's stay in the deliberation room in the court of the first instance in order to evaluate all the evidence was 22 hours. This time seems insufficient for comprehensive and objective study of the court investigation materials during which at least 8 witnesses and the defendant were questioned, and the explosive technical expertise was held, the materials on the preliminary investigation check and use of tortures, video files, the investigative experiment protocol and a whole range of other evidence were presented.

CASE OF JOURNALIST VLADYSLAV YESYPENKO

3. Moreover, the analysis of the audio recordings of the trial makes it possible to find that in at least 4 out of 12 hearings the judge in the court of the first instance neglected the requirement to keep impartiality, intruded repeatedly and with no grounds into the run of the process of witness interrogation or demonstrated lack of emotional restraint.

- On September 6, 2021, after the defender's question addressed at a witness, FSB officer Denys Korovin, the judge answered with the phrase, 'Open the Criminal procedural code, and you will learn!', demonstrating irritation.
- On September 6, 2021, the court refused to observe a photo to remove controversy, and it replied to the defense's objection, 'Well, if we don't find out, everyone will have a headache. We have already found everything out!'
- On September 13, the judge answered the defense's question addressed to the witness, FSB officer Aton Gryshchenko whether he had explained the defendant his rights, with the phrase, 'So ask Korovin what was explained and what wasn't!'
- On October 5, 2021, the judge answered the clarifying question asked to the witness, FSB officer Vyacheslav Tropin, with the phrase, 'He said that it is not



Vladyslav Yesypenko in the 'aquarium' before the court hearing, photo: Radio Liberty

important, I am asking you not to argue.' At this, the judge interpreted arbitrarily the answer of the witness who tried to dodge the question with the help of the phrase 'it is not important'.

- On October 12, 2021, during the witness Yelyzaveta Pavlenko's answer, the judge interrupted her, noticeably raising his voice, 'She saw prohibited objects on the video and these objects did not exist in reality. That's all! Next question!'

It is noteworthy that in most cases the judge lost impartiality during interrogation of FSB officers.

PUBLIC CONSIDERATION:

1. In the court of the first and in the court of appeal, measures were taken for timely informing the public about the date and time of the upcoming hearings. The information about the hearings was always placed on the official website of the court on time. Also, after the pronouncement of the verdict, the text of the court judgment was made public within a reasonable time and the text of the judicial determination was posted after the consideration of the appeal.

2. At the same time, the court of the first instance restricted the openness of the trial significantly. Out of 16 court hearings in the court of the first instance, 4 took place without the audience (in particular, the debate of the parties and the defendant's monologue with the final word), and 12 took place in the restricted mode –

CASE OF JOURNALIST VLADYSLAV YESYPENKO

the judge issued to allow one member of the public to the first hearing on the merits, and this concrete listener alone was allowed to all the subsequent hearings, such an opportunity was excluded for the rest of the other interested persons. Such an arbitrary decision contradicts the principle of publicity and openness of trials.

3. In at least 4 hearings, the court issued judgments about removal of the only member of the public from the court room during the interrogation of the witnesses who were FSB officers, explaining this with the fact that their personal data is disclosed on the hearing. The court did not refer to the legislative norm which limits the presence of members of the public at an interrogation due to this reason, and it did not take measures to return the listeners to the court room after the witnesses' personal data was disclosed.

4. The reading of the verdict in the court of the first instance was held without the audience, none of them were allowed into the court building. It is also unknown if motions of the media representatives who had sent their written applications to the court registry asking to provide their presence during the verdict pronouncement were granted. This indicates violation of paragraph 1 art. 6 of the ECHR, '...Judgment shall be pronounced publicly...' Apart from that, the judge did not pay necessary attention to the issues of providing publicity and openness of the trial, which led to the following violations:

5. On November 16, 2021, a visiting session in order to examine the defendant's car took place without members of the public. A media representative's motion about the

possibility of his presence during the visiting session in order to provide publicity on this stage of the court investigation process was not considered on time.

- In at least 4 cases, the court denied motions of various media representatives about their presence on trials and coverage of the trial. The court motivated its refusals with a small room which does not contain enough seats for the public, and also with the order of the Supreme court of the Republic of Crimea about measures of prevention of the coronavirus infection.
- On October 5, 2021, during a break in yet another hearing, the head of the convoy unit banned photographing of the defendant despite the court's ruling that contains the permission to film and take photographs during breaks in court hearings, and the court did not react to this.

On December 13, 2021, during a court experiment at yet another hearing, with the presence of the only member of the public allowed in the court



Lawyer Dmytro Dinze tells about the course of the hearing to journalists who were not allowed into the court

CASE OF JOURNALIST VLADYSLAV YESYPENKO

room, the court did not take measures for the member of the public to be able to see what kind of evidence was being observed and what actions were being done during the investigative experiment.

6. It is noteworthy that the judge used psychological pressure on the member of the public from time to time, threatening to remove them from the court room in case they walked during the hearing or took a photo or filmed. At this, the court did not have basis for such warnings since the member of the public did not make any attempt to break the existing order. Also, the state prosecutor repeatedly ordered to remove the member of the public and ban audio recording, and the judge frequently emphasized that he allowed audio recording only, while this issue was outside his duties and is a listener's inherent right in any open trial.

7. Members of the public were not allowed into the courtroom during the consideration of the appeal. The bailiffs at the entrance to the court building explained that the access is limited for those not being the participants in the trial due to the measures of prevention of the new coronavirus infection. Because of this reason, the reading of the court determination took place without the audience, which violates par. 1 art. 6 ECHR, '...Judgment shall be pronounced publicly...'

EQUALITY OF THE PARTIES:

1. The analysis of the audio recordings of the trial allows to determine that in at least 3 out of 12 hearings the judge removed the defense's questions to the witnesses, without persuading argumentation of his

actions. At this, the court did not act the same way when the witnesses were being questioned by the representative of state persecution, and sometimes openly supported his position. In particular:

- on September 29, 2021, the court supported the prosecutor and removed the defense's questions which, in his opinion, had already been asked, which did not always correspond with reality;
- on October 5, 2021, the court removed all questions of the defense regarding the circumstances of making the video recording on the spot of the operational measure, the video recording of which is absent in the case materials;
- on December 8, 2021, the defense objected to the actions of the presiding judge's who restricts, in lawyer Omelchenko's opinion, the interrogation of an expert. The judge removed the questions because he considered them 'a travesty'.
- So, during consideration of the case in the court of the first instance, one of basic rights provided by the ECHR in the part of provision of fair trial – the right to interrogation of persons who testify against the defendant – was restricted.



Vladyslav Yesypenko's wife pickets the office of the President of Ukraine, photo: Zmina

CASE OF JOURNALIST VLADYSLAV YESYPENKO

2. During court investigation, the defense party was deprived of the opportunity to question an important witness. In particular, the judge denied a motion about call and interrogation of an explosives expert who had defused the grenade found in the defendant's car. This also discriminated the defense in the right to interrogate persons who testify against the defendant.

3. Also, during court investigation, selectivity of the court was recorded during consideration of the parties' appeals on demanding documents or data that are important in the case. In particular, the court denied the defense's request for information about billing of the defendant's mobile phone, demand of registration books and methods of conduct of explosive technical expertise, demand for materials of the operational search activity, on the basis of which the detention of Vladyslav Yesypenko had been done. It is noteworthy that the court simultaneously granted the motion of the prosecution party about demand for the conclusion in the complaint about the FSB tortures of the defendant from the military investigative committee.

4. The court refused to add the alternative conclusion made by the explosives specialist to the case materials, as well as to add the written explanations made by the defendant's wife about the circumstances that matter in the case. These refusals indicate the disbalance between the parties in their ability to represent and add evidence, since during the trial the court added corrected versions of the state prosecutor's indictment to the case materials twice.

5. Among the recommendations on adherence to the standards of equality of the parties, in particular there is a recommendation about equal distancing of the parties from the court. In this criminal proceeding, the prosecution party was significantly closer (at least 1 metre) to the court than the defense party.

6. In at least two cases the court did not provide the necessary procedural behaviour of the prosecution party – it ignored the violation of the order and did not make remarks that the defense insisted on. In one case, the prosecutor called a media editorial 'a mob', the court began explaining the defense that she did not say so, however, as a matter of fact, it admitted that such a definition had been pronounced: 'She did not say so, she said 'was it official or not official? Officially she called it 'a mob', the judge explained. In another case, the prosecutor made a prompt to the witness of the prosecution, and the court did not react to a request to make her a remark.

7. Out of 15 defense's motions recorded during the monitoring process, only in 6 cases the decision was made to grant them, while all 3 prosecution's motions recorded during the process were granted.

PRESUMPTION OF INNOCENCE

1. During the whole trial in the court of the first instance, the defendant was kept in an 'aquarium'. Keeping defendants in a cage or an 'aquarium' forms an image of a guilty person, violating the presumption of innocence.

CASE OF JOURNALIST VLADYSLAV YESYPENKO

2. An unrestrained media campaign can negatively affect the fairness of the court consideration, influencing the public opinion and pushing the court to certain judgments. At least 22 publications were recorded with the emphasis on the defendant's involvement in committing actions that he had not been charged with. The context of the publications regarded the defendant's involvement in cooperation with Ukrainian special services and espionage, which was not enlisted in the charges imposed to the journalist.

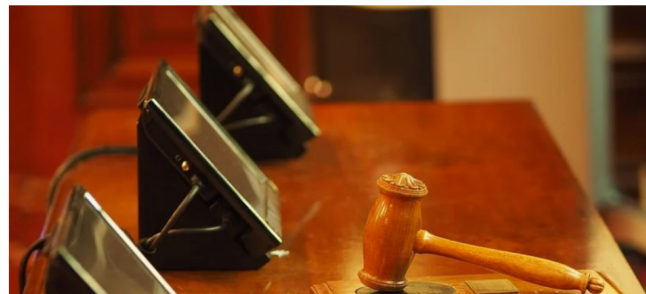
At the same time, in at least one case on the stage of preliminary court investigation, the website of the 'Primechaniya' Sevastopol internet outlet posted untrue information that the defendant was charged with the crime regarding collecting information for

ПРИМЕЧАНИЯ★RU

Суд над информатором спецслужб Украины начался в Крыму

Рассматривается дело арестованного в середине марта гражданина РФ Владислава Есипенко

15.07.2021 в 19:36 АВТОР: ДМИТРИЙ БУГАЙ



Trial against Ukrainian Special Services Informant Began in Crimea, Primechanya

the Ukrainian special services.¹¹ Prior to the court consideration of the case, in two cases media claimed that the verdict regarded cooperation with the Ukrainian special services and not with the charges imposed.

¹¹ <https://primechaniya.ru/sevastopol/novosti/sud-nad-informatorom-specsluzhb-ukrainy-nachalsya-v-krymu/>

CASE OF KOSTYANTIN SHYRYNG

DESCRIPTION OF THE EVENTS:

On April 15, 2020, it became known from an FSB announcement about the detention of members of 'a Ukrainian sabotage and reconnaissance group', which included a Russian servicewoman suspected in revealing a state secret. It became known later that the person mentioned was 60-year-old Kyivan Kostyantyn Shyryng, and the detained servicewoman is his civil wife Tetyana Kuzmenko from Feodosia. According to the version of the investigation, they collected data about the work of an anti-aircraft missile brigade, in which Shyryng's wife served under contract, on the instructions of the Ukrainian intelligence service.

Later a commentary by lawyer Oleh Glushko (notorious with his tight connections with the Crimean FSB department) appeared in Russian media about the fact that during the investigation Kostyantyn Shyryng did not consider himself guilty and claimed that his civil wife incriminated him. Also this lawyer informed that the defendant had been conveyed to the Moscow detention unit 'Lefortovo' since the case was transferred to the central apparatus of the FSB investigative department.

On July 14, 2021, the criminal case against Kostyantyn Shyryng under art. 275 'Espionage' was transferred to the Supreme Court of the Republic of Crimea. The trial started on August 11, 2021, and ran in a closed mode. On the first hearing, the defendant was called an ambulance since he suffered from cardiovascular diseases. The whole process took 7 trials. During the debates, the defendant did not plead guilty, he explained that his wife had incriminated him in order to save their child together from being

given to an orphanage. Insofar as she was also charged with art. 276 'High Treason', she was chosen a restraint measure of home arrest for giving testimony needed for the investigation, and the sentence enforcement was postponed until the child would reach adulthood.

On October 14, 2021, the Supreme court of the Republic of Crimea found Kostyantyn Shyryng guilty and sentenced him to 12 years of imprisonment. On January 25, 2022, during a visiting session of the judge board of the court of appeal of general jurisdiction under the presiding of Olena Kaporina, an appeal to the case verdict was considered, however, a determination was issued as a result, in which the decision of the Supreme court of Crimea was left unchanged.

One year after, on February 7, 2023, it became known that Kostyantyn Shyryng had died in prison in Orenburg region. This could happen due to the absence of necessary medical aid with the severe cardiovascular diseases that he had. In the period of the trial, Shyryng repeatedly paid attention to the fact that he was not provided with any medical aid in Simferopol detention unit, and he had filed a complaint against the administration of the detention unit at least 5 times.



Kostyantyn Shyryng during the court's imposition of a preventive measure, photo: NTV

CASE OF KOSTYANTIN SHYRYNG

THE TRIAL:

Court of first instance:

The Supreme court of Crimea

Judges:

Khinevych Alla Mykolayivna, not stated, not stated

Prosecutors:

Not stated

Lawyer:

Dinze Dmytro Volodymyrovych

Dates of hearings:

11.08.21 - 14.10.21

Results of consideration:

12 years of imprisonment

Court of appeal:

Third court of appeal of general jurisdiction (visiting session)

Judges:

Kaporina Olena Yevgeniivna, not stated, not stated

Prosecutor:

Not stated

Lawyer:

Dinze Dmytro Volodymyrovych

Date of hearings:

25.01.2022

Results of consideration:

Verdict left unchanged

Main violations of separate standards of fair justice:

CONSIDERATION BY INDEPENDENT AND IMPARTIAL COURT:

Kostyantyn Shyryng was charged with cooperation with the Ukrainian intelligence service. Apart from that, he was a citizen of Ukraine and, according to human rights defenders' evaluation, he did not conceal his pro-Ukrainian views. Considering these circumstances, in order to assess the impartiality of the court, it is a matter of special importance whether the judges participating in the case consideration are former judges of Ukraine, participants of criminal cases in the territory of Ukraine, accomplices in facts of human rights violations or political persecutions in the occupied territory of Ukraine.

Judge **Alla Khinevych** is a former judge of Ukraine who gave her oath of a Russian judge with violation of the current legislation of the RF (having double citizenship). Apart from that, in the territory of Ukraine Alla Khinevych is

CASE OF KOSTYANTIN SHYRYNG

suspected of committing the 'High Treason' felony, which could also influence the issued verdict since the defendant, in the Crimean Human Rights Group's opinion, had and did not conceal his clear political stance of the territorial integrity of Ukraine, which became the main reason for his persecution. It is also noteworthy that judge Alla Khinevych used to repeatedly issue guilty verdicts in politically motivated cases, in particular against participant of the Maidan events Andrii Kolomyets, founder of the Crimean Tatar voluntary battalion Lenur Islyamov and Ivan Yatskin who was charged with high treason and cooperation with Ukrainian special services.

Judge **Olena Kaporina** is a Russian judge who worked in Stavropolsky krai court one year before. Violating the norms of international humanitarian law, she participated in a court proceeding with a visiting session in the occupied territory. Her Russian citizenship and apparent career growth could influence the judge during consideration of this case, since the defendant is a citizen of Ukraine and is charged with doing harm to Russian interests.

PUBLIC CONSIDERATION:

1. All hearings in this trial ran in a closed mode.
2. The reading of the introductory and resolution part of the verdict (according to art. 241 of the criminal procedural code of the RF) is to be held at a public trial. The reading of the verdict on the results of this court proceeding took place in a closed mode.

3. Information about the defendant's surname, the composition of the judge board and the parties was hidden on the website of the Supreme court of Crimea.
4. The verdict issued in accordance with the results of the case consideration is absent on the official website of the court.
5. All the enlisted violations were recorded in the actions of the court of appeal as well.

EQUALITY OF THE PARTIES:

1. Due to the absence of publicity in the process, it was impossible to record the criteria that provide an opportunity to assess adherence to the equality of the parties.
2. At the same time, it is noteworthy that the defendant repeatedly informed about his health problems, the absence of necessary medical aid and the fact that he had been refused to meet with the Ombudsman of human rights of Crimea. All these circumstances may indicate that the



A convoy takes away Kostyantyn Shyryng after a court hearing, photo: FSB RF

CASE OF KOSTYANTIN SHYRYNG

defendant was in a vulnerable condition and in limited opportunity for defense according to his health condition during the trial process.

PRESUMPTION OF INNOCENCE:

1. Due to the absence of publicity in the process, it was impossible to record the criteria that would provide an opportunity to assess adherence to the principle of presumption of innocence. At the same time, according to the defendant's lawyer, Kostyantyn Shyryng was kept in a special enclosure during the trial. Keeping defendants in a cage or an 'aquarium' creates an image of a guilty person.

2. Moreover, at least 14 publications were marked in Crimean and Russian media, however most of them were made after the verdict entered into force and did not affect the verdict.

An exception is an article in the 'Kommersant' outlet created during the preliminary investigation period. The headline of the publication and the phrase 'espionage scandal' in an affirmative tone offers the version of the investigation about the family couple's involvement in the crimes incriminated to them even before the case started to be considered in the court.¹²

Коммерсантъ

Шпионские скандалы
19.05.2020, 20:50

Прапорщик изменила родине с мужем

Стали известны подробности шпионского скандала в Крыму

Как стало известно "Ъ", из Крыма в Москву этапировали украинца Константина Ширингу, обвиняемого ФСБ в шпионаже. По версии следствия, он вместе с сожительницей, российской военнослужащей из Феодосии, входил в действующую на полуострове группу, курируемую главным управлением разведки Минобороны (ГУР МО) Украины. Господин Ширинга связь с украинской разведкой отрицает, утверждая, что его оговорила супруга, обвиняемая в измене родине за сбор информации о вооружении и численности личного состава зенитного ракетного

Ensign cheated on her homeland with her husband, Komersant

¹²<https://www.kommersant.ru/doc/4349277>



CASE OF JEHOVAH'S WITNESSES

DESCRIPTION OF EVENTS:

In August 2021, the FSB initiated a criminal case against residents of Armyansk Oleksandr Lytvynyuk and Oleksandr Dubovenko, charging them with organizing the activity of an extremist organization – the 'Jehovah's Witnesses' religious association.

The 'Jehovah's Witnesses' started to be persecuted in Crimea after the Supreme court of the Russian Federation recognized the activity of the 'Coordinating centre of Jehovah's Witnesses in Russia' extremist and banned its activity and the activity of all its 395 branches in the territory of Russia in 2017, the first verdicts were issued in 2020. This became the seventh criminal case against representatives of this religious group in the territory of Crimea.

According to the materials of the indictment, Lytvynyuk and Dubovenko used the 'Zoom' video conferencing software in order to include new members in the organization. The court selected home arrest as a measure of restraint for both.

On April 2022, the consideration of the case on the merits began in Armyansk city court. In total, 42 hearings were held. On the conclusions of the trial held on December 1, 2022, the judge of Armyansk city court Tetyana Fedeneva found Oleksandr Lytvynyuk and Oleksandr Dubovenko guilty and sentenced them to 6 years of imprisonment in a general regime penal colony. Also, a 5-year deprivation of the right to do educational activity, activity connected

with performances and publications on the media was applied as an additional restriction. The defendants were arrested in the court room.

On March 23, 2023, the Supreme court of Crimea left the current verdict of the court of the first instance unchanged in the part of imprisonment, having canceled the additional restrictions.

THE TRIAL:

Court of first instance:	Armyansk city court
Judge:	Fedeneva Tetyana Mykolayivna
Prosecutor:	Sadykova Minigyul Shevketivna
Lawyers:	Galushko Yulia Anatoliyevna (for Lytvynyuk), Voytsekhovskiy Sergii Viktorovych (for Dubovenko)
Dates of hearings:	05.04.2022- 01.12.2022
Results of consideration:	6 years of imprisonment and deprivation of the right to do educational activity, activity connected with performances and publications on the media, placement of materials in informational communicational networks, including the internet, for 5 years

CASE OF JEHOVAH'S WITNESSES

Court of appeal:	Supreme court of Crimea
Judges:	Mykhaylov Dmytro Olegovych (presiding), Redko Galyna Volodymyrivna, Latynin Yuri Anatoliyovych (board members)
Prosecutor:	Turenko Oleksandr Volodymyrovych
Lawyer:	Galushko Yulia Anatoliyevna (for Lytvynyuk), Voytsekhovsky Sergii Viktorovych (for Dubovenko)
Date of hearing:	16.03.2023
Results of consideration:	6 years of imprisonment

The main violations of separate standards of fair justice:

CONSIDERATION BY AN INDEPENDENT AND IMPARTIAL COURT:

1. The case was considered in the court of the first instance by judge **Tetyana Fedeneva** who is a Russian judge and earlier was transferred from Zhygulyivsky district court, Samara region, RF. Violating the norms of international humanitarian

law, she participated in a trial in the occupied territory. Her Russian citizenship and apparent career growth could influence the judge during consideration of the case since the investigation was done by the FSB officers, and also due to all-Russian practice of court persecutions of the 'Jehovah's Witnesses'.

2. A complaint in the court of appeal was considered by a board of judges which included two former Ukrainian judges (**Galyna Redko** and **Yuri Latynin**) against whom the Prosecutor General's Office of Ukraine initiated a criminal case under art. 111 'High treason'. Judge **Mykhaylov Dmytro Olegovych** who has considered cases in the Supreme court since 2021, presided in the appeal process. On September 16, 2021, he took part in consideration of an appeal to the verdict against activist of the Crimean Tatar movement Edem Bekirov, and also he was presiding in the board on consideration of a verdict to leader of Crimean Tatars Mustafa Dzhemilev.

The defendants did not have obvious connection with the Ukrainian state or Crimean Tatars, so there are no grounds to consider the judges' attitude to the case to be partial due to their criminal persecution in Ukraine. At the same time, the enlisted circumstances raise some doubt in the level of the court's independence during consideration of the case.

3. In connection with the fact that proceeding in this case ran mostly in a closed mode, it was impossible to record partial attitude of the court to the

CASE OF JEHOVAH'S WITNESSES

participants of the process according to the results of monitoring or any signs that indicate the court's dependence. However, in this situation, attention is paid to the statements of the defendants themselves that the judge in the court of the first instance did not conceal her partial attitude and demonstrated signs of dependence. In particular:

- it is mentioned in Dubovenko's final speech that, from time to time, the judge asked the question, 'why we didn't choose a 'normal Christian' belief but preach the 'Jehovah's Witnesses' religion'
- on April 29, 2022, according to the defendants' claims, the judge openly interfered with the lawyer's legal assistance to his client Lytvynyuk
- on June 15, 2022, according to the defendants' claims, the judge gave some answers instead of the witness – an FSB officer, and she declined the defense's questions to the defendant.
- on June 18, 2022, according to the defendants' claims, the judge was shown distrust due to her interest in the case results. The motion about the distrust was not granted.
- on June 19, 2022, according to the defendants' claims, during the interrogation of the defense witnesses, the judge interrupted their speech and expressed her negative attitude to the religion of the 'Jehovah's Witnesses'.
- on September 8, 2022, according to the defendants' claims, a second motion of distrust was made against the judge due to her interest in the case results. it became known from the materials of the judgment issued by the court of

appeal that in his complaint the lawyer Galushko states, 'the judge's behaviour may indicate her personal interest in the case results and her passiveness due to the investigators' falsification of the materials of the criminal case'.

- It is known from the materials of the judgment issued by the court of appeal that lawyer Galushko states in his complaint: the judge does not conceal 'her prejudice and antipathy towards the religion of the 'Jehovah's Witnesses', and also her 'dependence from the FSB officers' was noticeable.
- It is known from the materials of the judgment issued by the court of appeal that lawyer Voytsekhovsky pointed: the judge demonstrated 'her attitude which is different from the attitude to representatives of 'traditional' religions'.

PUBLIC CONSIDERATION:

1. Full information about the case under consideration was absent on the official website of Armyansk city court, - the



Religious believers Oleksandr Lytvynyuk and Oleksandr Dubovenko outside the court building, photo: jw-russia.org/

CASE OF JEHOVAH'S WITNESSES

defendants' personal data was hidden. So, it was impossible to learn about the date, time and place of the hearings in this process on the official resources. Information about the parties in the case was hidden as well.

2. The court of the first instance did not publish the verdict in the case in adequate terms. The reading of the verdict took place in a closed mode. This indicated violation of par. 1 art. 6 ECHR '...Judgment shall be pronounced in public...'

3. According to the official information on Armyansk city court's website, the judge of the first instance issued a decision announcing the trial in a closed mode in the period from 22.04.22 (since then 6 hearings took place in an open mode, the rest took place in a closed mode). However, as a matter of fact, the court did not allow members of the public during all the hearings in this criminal case. It was impossible to learn what had encouraged the restrictions to publicity and openness of the trial. It is known from the materials that lawyer Galushko stated in his complaint, 'the process unlawfully and arbitrarily took place in a closed mode.'

4. In the court of appeal, the number of members of the public allowed into the court room was limited to 4 people, which was explained with measures against the coronavirus infection and provision of safe placement of the citizens in the court room. Accordingly, the publicity and openness of the trial were provided insufficiently.

EQUALITY OF THE PARTIES:

1. Due to the absence of opportunity of actual observation of the trial, it was impossible to evaluate adherence to the principle of equality of the parties objectively and comprehensively.

2. At the same time, we consider it necessary to point out the facts which became known from the defendants' words and the content of the judgment made by the court of appeal. The court of the first instance refused to question the experts, in particular, a person that had made the conclusion of the complex psychological linguistic and religious expertise. Considering the fact that the conclusions of this expertise were put into the grounds of the verdict, the refusal to interrogate the expert was an obvious restriction of one of fundamental rights provided for by the ECHR in part of provision of a fair trial – the right to interrogate persons who testify against the defendant.

3. According to the defendants' words, the defense party was deprived of an opportunity to add 27 sheets of evidence which had been added to the case on the stage of the preliminary investigation but later disappeared from the case materials, to the case materials. This can indicate violation of the ECHR standard which regards the balanced opportunity for the parties to become familiar with all the presented evidence.

4. Out of 13 motions made by the defense and recorded during the analysis, only in

CASE OF JEHOVAH'S WITNESSES

1 case a decision was approved to grant the motion, while all 4 prosecutor's motions known within the framework of the research were granted.

PRESUMPTION OF INNOCENCE:

1.No obvious signs of violation of presumption of innocence of the defendants were recorded during the whole process in the court of the first instance.

2. An unrestrained campaign on the media may affect the fairness of the trial,

КОМПРОМАТ группа

ВАНИЯ КРИМИНАЛ ПОЛИТИКА ВЛАСТЬ ЭКОНОМИКА СПЕЦСЛУЖБЫ
структуры Финансы Контрабанда Рейдеры Убийства Наркомафия Воры ОП
Д Е Ж З И К Л М Н О П Р С Т У Ф

ФСБ задержала в Крыму вербовщиков «Свидетелей Иеговы»

Новости Источник: Lenta.ru 10-08-2021, 19:57 2 704 0

FSB Detained 'Jehovah's Witnesses' Recruiters in Crimea, Compromat Group

10 АВГУСТА 2021, 16:32

ФСБ пресекла деятельность ячейки «Свидетелей Иеговы» в Крыму

Текст: Евгения Шестак

ФСБ пресекла в Крыму деятельность ячейки, запрещенной в России экстремистской религиозной организации «Свидетели Иеговы», сообщила пресс-служба УФСБ России по Республике Крым и городу Севастополю.

«Установлено, что двое жителей города Армянска в различных помещениях проводили собрания и выступления, пропагандировали идеи религиозной организации «Свидетели Иеговы», а также вербовали в свои ряды новых adeptов. В целях конспирации собрания проводились с использованием видеосвязи через

FSB curbed activity of 'Jehovah's Witnesses' branch in Crimea, Vzglyad

influence the public opinion and push the court to certain judgments. At least 18 publications made long before the start of the court investigation were recorded, with the emphasis on the involvement to extremist religious communities, the conduct of 'recruitment',¹³ 'clandestine activity' and presence of conspired branches,¹⁴ all of the enlisted being unproven by the court at that moment. In many materials, the role of the FSB in the crime termination is mentioned, which could also influence the fairness of the court judgment.

¹³ <https://compromat.group/news/47258-fsb-zaderzhala-v-krymu-verbovschikov-svideteley-iegovy.html>

¹⁴ <https://vz.ru/news/2021/8/10/1113194.html>

CASE OF ABDUCTED RUSTEM OSMANOV

DESCRIPTION OF EVENTS:

Massive abductions of civil persons began in the newly occupied territory after the beginning of the full-scale invasion. In the south of Ukraine, the abducted persons were heads of communities, volunteers, journalists, former combatants in the ATO and also Crimean Tatars suspected in having been participants of the voluntary battalion named after Noman Chelebidzhykhan which was involved in the blockage of food and electricity supply to the occupied peninsula in 2014. Different from the rest of the abducted, this category of people was transported to Crimea at once and given to the investigative bodies of the FSB. At the moment when the report was being prepared, it was known about 8 residents of the newly occupied territories who were transported to Crimea on the suspicion of committing this crime.

Resident of the village of Kalanchak, Rustem Osmanov was abducted by armed people on April 15, 2022, right from his household. He claims that the abductors were Russian servicemen who had factual control of the territory of Kherson region around



Official arrest of Rustem Osmanov on the border with Crimea, photo: FSB

Kalanchak at that time.

They started to beat him in his household in front of the eyes of his family members. Then they put a bag on his head, shackles on his hands and forced him into the car where the beating continued. After an unidentified period of time, they dropped him at a checkpoint on the borderline where he was officially detained 'when he was attempting to enter Crimea via the car checkpoint 'Armyansk'.

According to Osmanov's words, he was demanded to give explanations in front of a video camera that he was going to Crimea alone and that he was detained only at the checkpoint. When he began to object to this, unknown people in uniforms threatened to kill him and all his family. Being afraid for his loved ones, the Crimean Tatar complied with these demands and afterwards he was sent to the Department of the FSB in the Republic of Crimea and the city of Sevastopol. There, Rustem Osmanov underwent tortures after which he signed the confession about participation in the voluntary battalion necessary for the investigation.

According to the investigation's version, it was identified that in 2016, being in the territory of Ukraine, the defendant had voluntarily joined the battalion (named after N. Chelebidzhykhan) where he provided the battalion with material and food supplies for its activity and also participated in its militarized security. The preliminary investigation lasted 1 month. On June 23, 2022, Bilohirsk district court started to consider the criminal case against Rustem Osmanov on the merits. In total, there were 5 hearings,

CASE OF ABDUCTED RUSTEM OSMANOV

after which the defendant was found guilty in the crime under part 2 art. 208 – participation in an illegal military formation. Judge Ihor Sokolovsky sentenced him to 6 years of imprisonment with the first year in prison and the rest of the time - in a strict regime penal colony.

THE TRIAL:

Court of first instance:	Bilohirsk district court
Judge:	Sokolovsky Ihor Stanislavovych
Prosecutor:	Popov Petro Ivanovych
Lawyer:	Yunus Refat Memetovych
Dates of hearings:	23.06.2022- 04.08.2022
Results of consideration:	6 years of imprisonment

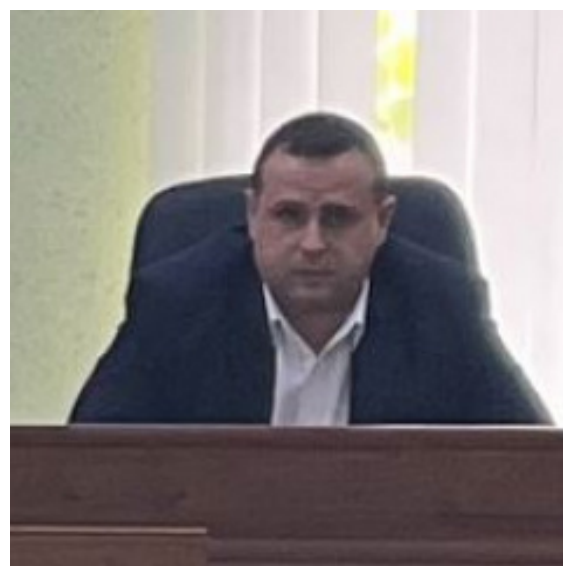
Main violations of separate standards of fair justice:

CONSIDERATION BY INDEPENDENT AND IMPARTIAL COURT:

1. Rustem Osmanov was charged with being a member of the voluntary battalion named after Noman Chelebidzhikhan, whose founders defined the deoccupation of Crimea

from the Russian invaders as the final aim of creation of this formation. Considering this circumstance, in order to evaluate the court's impartiality, it is a matter of special importance whether the judges who took part in the case consideration are former judges of Ukraine, participants of criminal cases in the territory of Ukraine, accomplices in the facts of human rights violations or political persecutions in the occupied territory of Ukraine.

Judge in the court of the first instance, **Sokolovsky Ihor Stanislavovych** is a former judge of Ukraine (Bilohirsk district court) who betrayed oath. In June 2015, the Prosecutor General's Office of Ukraine initiated a criminal proceeding against him and issued a suspicion on the fact of committing the crime under part 1 art. 111 of the Criminal code of Ukraine (high treason).



Judge Ihor Sokolovsky, who is wanted by Ukrainian law enforcement agencies on suspicion of treason

CASE OF ABDUCTED RUSTEM OSMANOV

2. Due to the fact that the proceeding in this case was held mostly in a closed mode, according to the results of monitoring it was impossible to record the judge's biased attitude towards the participants of the trial or any signs indicating the court's dependence. However, in this situation, attention must be paid to general trends of courts' dependence on the FSB's position and practice of consideration of similar cases which with no exception are considered with issuing indictments and punishment in the form of long-term imprisonment.

PUBLIC CONSIDERATION:

1. All the hearings were held in a closed mode with no members of the public. The formal pretext for this was the restriction to attend the court by persons who are not participants in the trial due to the threat of spread of the new coronavirus infection (2019-nCoV) in the territory of the Russian Federation.

At the same time, information on who and on what basis issued a judgment to restrict access to the court building is absent on the website of the court. Considering the circumstance that all restrictions regarding the threat of spread of the coronavirus infection were canceled in other spheres of life and in the state bodies in the territory of Crimea in 2021, these reasons seem far-fetched and aimed at offsetting publicity and openness of jurisdiction.

2. It is also important to note that restrictions of openness and publicity of the process, according to the contents of art. 6

ECHR, can be allowed for moral reasons, civil order or national security. The anonymous publication of Bilohirsk district court about the access restriction does not contain information which would indicate the ideas that became the reasons for the restrictions.



Order of 2020 banning the presence of court listeners at court hearings

3. The court of the first instance did not publish the verdict in this case within adequate time. The reading of the verdict was held in a closed mode. This indicates violation of paragraph 1 art. 6 ECHR '...Judgment shall be pronounced publicly...'

EQUALITY OF THE PARTIES:

1. Due to the absence of possibility to observe the actual trial, it was impossible to evaluate adherence to the principle of equality of the parties objectively and comprehensively.

2. At the same time, we consider it necessary to highlight the facts which

CASE OF ABDUCTED RUSTEM OSMANOV

became known according to the words of the trial participants and the contents of the verdict:

- the representative of state prosecution visited the judge's office repeatedly after each trial in this case. This is an indirect sign of non-procedural contacts of the court with one of the parties in the case, which leaves the other party of the process in a vulnerable condition.
- according to the data from the verdict in the criminal case, testimony given by witness Kadyrov on the stage of the preliminary investigation was announced during the court investigation. Meanwhile, it is known that this person is in the RF territory and has legal capacity, so the court did not have any grounds to make his testimony public without questioning him in the court room. The decision to make the testimony public was an obvious violation of one of fundamental rights described by the

ECHR in the part of provision of fair trial – the right to interrogate persons who testify against the defendant.

PRESUMPTION OF INNOCENCE:

1. Due to the absence of publicity in the court proceeding, it was impossible to record the criteria that would allow to assess adherence to the principle of presumption of innocence. At the same time, according to the information given by the defendant's lawyer, Rustem Osmanov was kept in a special enclosure during the trial. Keeping defendants in a cage or an 'aquarium' forms the image of a guilty person.
2. Apart from that, at least 5 publications on Crimean and Russian media regarding this persecution were recorded, however all of them were made after the verdict came into force and did not influence the final judgment.

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS

DESCRIPTION OF THE CASE:

In the period between May 26 and May 28, 4 lawyers who represent the defense party in politically motivated criminal cases were detained in Simferopol . In one case regarding lawyer Edem Semedlyayev, a protocol of administrative offense under art. 20.3.3 for discrediting the Russian army was made because a user had posted an anti-war text on Edem's Facebook page. Regarding the other 3 lawyers (Nazim Sheykhmambetov, Ayder Azamatov and Emine Avamileva), protocols of administrative offenses were made based on the events of October 2021 when these lawyers provided legal aid to lawyer Edem Semedlyayev who was detained for disobeying the legal requirements of the police when performing duties of a lawyer at that period.

All the 3 lawyers were charged with the fact that they had given commentaries to journalists based on the results of their provision of legal aid and did not keep social distance, by which they posed a threat to citizens' life and health and broke art. 20.2.2 of the criminal administrative code of the RF on participating in massive simultaneous gathering and (or) movement of citizens in public places if massive simultaneous



A group of lawyers and civil defenders who came to defend lawyer Nazim Sheykhmambetov, photo: Crimean Solidarity



Detention of lawyer Azamatov, who came to defend lawyer Nazim Sheykhmambetov, photo: Crimean Solidarity

gathering and (or) movement of citizens in public places caused violation of sanitary norms. It is also important to note the demonstrative character of the detentions: lawyer Nazim

Sheykhmambetov was detained by the officers of the counter-terrorism centre right after the court hearings against lawyer Edem Semedlyayev who had been detained earlier, and lawyers Ayder Azamatov and Emine Avamileva were detained prior to the trial in the case against detained lawyer Nazim Sheykhmambetov.

All the lawyers were found guilty according to the results of the court consideration of the protocols on administrative offenses. The court decided to fine lawyer Edem Semedlyayev in the sum of 75 000 rubles (about \$1400 – 1500), lawyer Emine Avamileva was sentenced to 5-day administrative arrest, lawyers Ayder Azamatov and Nazim Sheykhmambetov – to 8-day administrative arrest.

Since 1 out of the 4 cases was not connected with imprisonment and so it does not fall under the criteria of selection of cases for the analysis, it is not reviewed in detail and was not included into this research.

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS



Sheykhmambetov Nazim



Azamatov Ayder



Avamileva Emine

THE TRIAL:

Name, paternal name and surname of the persecuted lawyer	Sheykhmambetov Nazim Nurievych	Azamatov Ayder Bilyalovych	Avamileva Emine Rodionivna
Court of first instance:	Central district court of Simferopol	Central district court of Simferopol	Central district court of Simferopol
Judge:	Demenok Sergii Valeriyovych	Demenok Sergii Valeriyovych	Demenok Sergii Valeriyovych
Prosecutor:	Did not participate	Did not participate	Did not participate
Lawyers and civil defenders:	Gemedzhi, Panich, Kurbedinov, Kyanilev, Zudiyeva, Shabanova, Suleymanov, Semedlyaeva	Ladin, Yunus, Temishev, Kurbedinov, Velilyaev, Shabanova, Semedlyaev, Avamileva	Shabanova, Temishev, Semedlyaev, Kurbedinov
Dates of hearings:	27.05.2022	28.05.2022	28.05.2022
Results of consideration:	8 days of arrest	8 days of arrest	5 days of arrest

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS

Name, paternal name and surname of the persecuted lawyer	Sheykhmambetov Nazim Nurievych	Azamatov Ayder Bilyalovych	Avamileva Emine Rodionivna
Court of appeal:	Supreme court of Crimea	Supreme court of Crimea	Supreme court of Crimea
Judges:	Dyachenko Lyubov oleksandrivna	Shidakova Oksana Arsenivna	Yakovlev Sergii Valeriyovych
Prosecutor:	Did not participate	Did not participate	Did not participate
Lawyers:	Semedlyayev Edem Serverovich	Did not participate	Temishev Dzhemil Musayevych
Dates of hearings:	29.06.2022	04.07.2022	22.06.2022
Results of consideration:	Left unchanged	sent to a different court for re-consideration	Left unchanged

Main violations of separate standards of fair justice:

CONSIDERATION BY INDEPENDENT AND IMPARTIAL COURT:

The lawyers that underwent the obviously planned and systemic persecution, are constant defenders in trials on politically motivated cases, in particular, in criminal cases where they defend persons who are supporters of Ukraine, stand for deoccupation of Crimea and renewal of the territorial integrity of Ukraine. Considering this circumstance, in order to evaluate

impartiality of the court, it is a matter of special importance whether the judges who participated in the consideration of the case are former judges of Ukraine, participants of criminal cases in the territory of Ukraine, accomplices in facts of human rights violation in the occupied territory of Ukraine.

Demenok Sergii Valeriyovych is a former judge of Ukraine (Central district court of Simferopol) who betrayed oath. In June 2015, the Prosecutor General's Office of Ukraine initiated criminal proceedings against him on the fact of committing the crime described in part 1 art. 111 of the criminal code of Ukraine (high treason). Earlier, he participated as a judge in criminal persecution of

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS

participants of a rally held for the territorial integrity of Ukraine (case '26 February') and politically motivated persecution of Crimean Tatar activist Edem Bekirov. Also, he took part in persecution of Crimeans for their anti-war stance and public support of Ukraine after the beginning of the full-scale invasion.

Yakovlev Sergii Valeriyovych is a former judge of Ukraine (District administrative court of the ARC), against whom the Prosecutor General's office of Ukraine initiated criminal proceedings on the fact of committing the crime under part 1 art. 111 of the criminal code of Ukraine (high treason). Earlier, he took part as a judge in considering orders connected with persecution of Crimeans for their anti-war stance and public support of Ukraine after the beginning of the full-scale invasion.

Dyachenko Lyubov Oleksandrivna is a former judge of Ukraine (the Court of appeal of the ARC), against her the Prosecutor General's office of Ukraine initiated criminal proceedings on the fact of committing the crime under part 1 art. 111 of the criminal code of Ukraine (high treason).

Shydakova Oksana Arsenivna was a judge of Ikryaninsky district court of Astrakhan region before the occupation of Crimea and performs proceedings in the occupied territory violating the norms of international humanitarian law. As a judge, she took part in consideration of appeals on orders connected with persecution of Crimeans for their anti-war stance and their public support of Ukraine after the beginning of the full-scale invasion.

In such conditions, the independence and impartiality of the judges who are participants of criminal cases,

participants of war crimes and accomplices in politically motivated persecutions raise grounded doubt.

2. Also, the following circumstances can additionally indicate the dependence of the judges in making judgments in this set of cases:

- On May 27, 2022, during consideration of a case on administrative offense against lawyer Nazim Sheykhmambetov, judge Sergii Demenok issued a judgment on the spot, without going to the deliberation room for objective and impartial evaluation of the evidence provided by the parties. These actions directly point at the fact that the court's judgment had been determined in advance and the court consideration had a formal character.
- Apart from that, according to the data from the official website of the Central district court of Simferopol of May 5, 2022, the time of consideration of the case of the administrative offense against lawyer Nazim Sheykhmambetov took 25 minutes. Such a short period of time seems insufficient for comprehensive study of all the circumstances and can indicate the fact that the judgment was prepared in advance.
- On May 28, 2022, during consideration of the case against lawyer Ayder Azamatov on administrative offense, judge Sergii Demenok interrupted civil defender Ayder Suleymanov several times and with no grounds, which can indicate the absence of impartiality during

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS

consideration of this case.

- On May 28, 2022, during consideration of the case against lawyer Ayder Azamatov on administrative offense, judge Sergii Demenok was shown recusal in connection with his interest in the case results, it was revealed in his actions in which 'the defense's right to impartiality was offset'.
- On May 28, 2022, during consideration of the case against lawyer Emine Avamileva, judge Sergii Demenok pressurized the lawyers Edem Semedlyayev and Refat Yunus, who were speaking, several times. In particular, he demanded from lawyer Refat Yunus to stop his speech 'if there is nothing to add on the merits', however, the lawyer's speech did not contain information that had been already disclosed at the hearing. Such actions of the judge may indicate the absence of impartiality during consideration of this case.
- appeals to the judgments of the courts of the first instance were considered during a short period of time (every appeal was considered within 1 hour on average), which, excluding the case against Ayder Azamatov that was sent to consideration on jurisdiction, seems insufficient for comprehensive study and can indicate the fact that the judgment of the court of appeal was determined in advance.

PUBLIC CONSIDERATION:

1. Members of the public were not allowed into the building of the Central district court of Simferopol where 3 court hearings against the independent lawyers were taking place.

The court explained its decision with the fact that restrictions regarding the coronavirus infection were in action. It is important to note that restrictions of openness and publicity of a trial, according to the contents of art. 6 ECHR, can be allowed on moral grounds, civil order or national security. The argument about the threat of the coronavirus infection seems invalid due to the circumstance that all measures connected with the threat of spreading the coronavirus infection were canceled in other spheres of life and in the state bodies in the territory of Crimea in 2021. There are grounds to think that the reasons of the restrictions are far-fetched and introduced by the court in order to offset the publicity, openness and transparency of justice.

2. Information about the place and time of the trial was not published in time in the court of the first instance. So, for example, information about the consideration of the case against Nazim Sheykhmambetov appeared on the website of the Central district court of



Lawyer Emine Avamileva is put in a car to serve her arrest, photo: Crimean Idea

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS

Simferopol on the next day after the hearing was held. The data about the date, time and place of trials against lawyers Ayder Azamatov and Emine Avamileva was not placed on the website of the court's official website.

3. In all the cases, the court declined the defense's motions about keeping the audio protocol of the trial since these actions in cases on administrative offenses are not obligatory. Having a formal right for such a decision, the court did not take it into consideration. The refusal to allow keeping an official court audio protocol may indicate an intention to lower the level of publicity of justice.

4. The court of the first instance did not publish the order on lawyers Ayder Azamatov and Emine Avamileva in adequate time. Apart from that, the reading of the judgments also took place without members of the public. This indicated violation of paragraph 1 art. 6 ECHR '...Judgment shall be pronounced publicly...'

5. On May 28, during consideration of the case against Ayder Azamatov on administrative offense, the judge denied a motion requested by a journalist of one of the registered media about participation as a



Lawyer Edem Samedlyayev tells about his detention, photo: Crimean Solidarity

listener. The judge motivated his decision with prohibition of filming and taking photographs. Such argumentation contradicts the principles of publicity and looks far-fetched since journalists' work in trials is not restricted to only filming or taking photographs.

EQUALITY OF THE PARTIES:

1. Courts in Crimea keep the trend of not calling a representative of state prosecution during consideration of cases on administrative offenses. At this, it is noteworthy that in all the cases the court denied the defense's motions about calling the prosecutor to introduce the prosecution party. In particular, it happened in cases when the lawyers emphasized that punishment on administrative article is connected to imprisonment and so it corresponds with criminal accountability and requires increased attention to the principle of adversarial parties. The court did not provide adversarial parties in its judgments of appeal either.

So, the defense party appeared in a more vulnerable condition since the very beginning, because the court additionally performed the functions of the prosecutor's party (reading protocols, testimony of the witnesses, showing photo charts and other evidence of the offense).

2. On May 27, 2022, 30 minutes before the start of the trial against lawyer Nazim Sheykhmambetov, officers of the law

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS

enforcement departments detained his two lawyers – Ayder Azamatov and Emine Avamileva who had arrived in the court in order to perform their lawyer duties and to defend Sheykhmambetov. These actions had signs of a deliberate attack in order to interfere with their lawyer activity and deprive Sheykhmambetov of additional legal assistance.

3. During consideration of the cases, the court of the first instance refused to call the witnesses who were enlisted as such during the completion of a protocol of administrative offense. Apart from that, in at least 2 hearings regarding consideration of the cases against lawyers Nazim Sheykhmambetov and Ayder Azamatov, the court refused to call police officers and the people who had completed the administrative protocols as witnesses. In Azamatov's case, the court also refused to call a representative of the Chamber of Advocates of Crimea whose evidence would have been important to determine the truth. So, during consideration of cases in the court of the first instance, one of the fundamental rights determined by the ECHR in the part of provision of fair court consideration was restricted – the right to interrogate persons who testify against the defendant.

4. On May 27, 2022, during consideration of the case against lawyer Nazim Sheykhmambetov on administrative offense, the court did not allow the defense party to have oral argument, and it did not allow the defendant to say his final word. This is highly likely to have been explained with the optionality of this stage in the code of

administrative offense. However, considering the fact that the punishment corresponds with criminal accountability, the court was aware that these actions deprive the defense party of possibilities to realize its right.

5. On May 28, 2022, before consideration of the case against lawyer Ayder Azamatov on administrative offense, 11 lawyers showed their wish to provide him legal assistance in the court. However, the court restricted the number of defense representatives to 8 persons with a law degree. The court explained its decision with the fact that such a number of defenders would be enough to realize the right to defense. This statement seems unreasonable and subjective and it also restricted the defense's opportunities.

6. On May 28, 2022, before consideration of the case against lawyer Emine Avamileva on administrative offense, 11 lawyers and civil activists expressed their wish to provide her legal assistance in the court. However, the court limited the number of defense representatives to 6 people with a law degree. The court explained its decision with the fact that such a number of defenders would be enough to realize the right to defense. This statement seems unreasonable and subjective and it also restricted the defense party's opportunities.

7. During the time of court hearings in the court of the first instance, the defense party, in the interest of the lawyers charged with administrative responsibility, made at least

THE PERSECUTION OF INDEPENDENT CRIMEAN TATAR LAWYERS

32 motions that were important for the proof of their positions. In 78% of the cases, they were denied (25 motions were denied, 7 granted).

ПРЕЗУМПЦІЯ НЕВИНУВАТОСТІ

Obvious violations of standards of adherence to the presumption of innocence were not recorded. At the same time, it is noteworthy

that lawyers Nazim Sheykhmambetov and Ayder Azamatov were sent to the court under convoy of police officers, which forms the image of guilty persons.

The Russian and Crimean press mostly did not cover these persecutions, so any cases of unbalanced and unrestrained statements regarding the persecution of the independent Crimean lawyers were not recorded.

CONCLUSIONS

How did the judicial system created in the conditions of the occupation of Crimea change before and after the full-scale invasion, during consideration of politically motivated persecutions in the courts?

The detailed analysis of adherence to separate standards of fair justice with an example of the monitored cases and a comparative analysis with the results of the previous periods allows to conclude that the judicial system created under the conditions of the occupation of Crimea which had not been able to provide efficient protection from illegal politically motivated persecutions, became even less public before and after the beginning of the full-scale invasion, as well as less impartial and obviously more dependent on the FSB authorities.

The following indicates the stated above:

- the appointment of the judges, whose previous actions raise doubt in their independence and impartiality, to consider politically motivated processes;
- expansion of the new Russian legislation (in particular, about discrediting the Russian army) in the occupied territory violating the norms of international humanitarian law;
- rise in number of standards regarding which systematic violation of procedural guarantees of a fair court consideration is recorded;

This gives the basis to presume that the judicial system created in the conditions of the occupation of Crimea before and after the beginning of the full-scale invasion is still a tool for politically motivated persecutions, with a high level of dependence on the objectives and tasks of the law enforcement structures in the occupied territory.

Additional evidence of validity of this statement will be the answer to the question of this research whether separate standards of fair court proceeding were adhered to during consideration of politically motivated cases in Crimean courts in the period before and on the first stage after the invasion?

The answer to this question is in a step-by-step analysis of each of the 4 standards which were researched with the help of the example of the politically motivated cases described above:

COURT CONSIDERATION BY INDEPENDENT AND IMPARTIAL COURT:

The standard was not met. All the processes contained more than one, both obvious and indirect, signs that indicate a possible dependence and/or commitment of the court.



CONCLUSIONS

In order to provide independence and impartiality during consideration of politically motivated cases in Crimea, it was necessary to exclude the participation of the judges who:

- are suspects, charged ones or sentenced criminals in the territory of Ukraine;
- administer justice violating IV Geneva Convention relative to Protection of Civilian Population in Time of War;
- are related to gross violations of human rights, humanitarian rights, and repressions against residents of the occupied territories;

Out of the 17 judges who participated in consideration of politically motivated cases on the stage of the first instance or in the court of appeal and were identified during the research, all the 17 are related to one (and some of them are related to two) of the categories listed above.

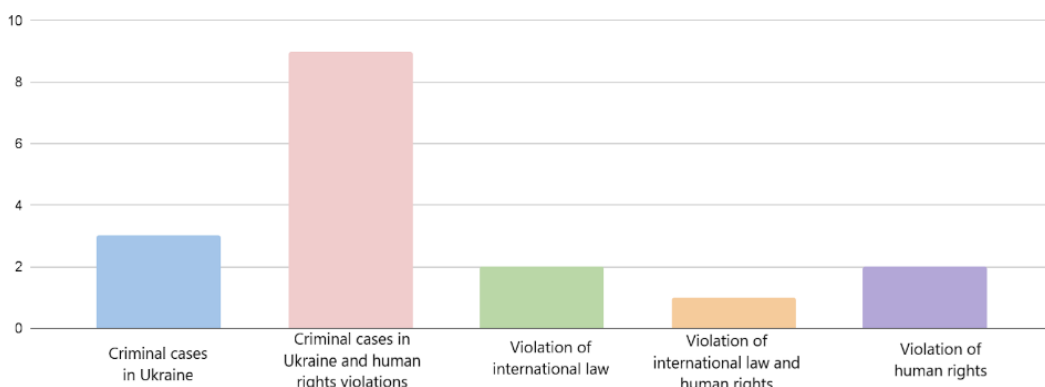
The Russian Federation violated the requirements of art. 54 Geneva Convention (IV) which prohibits change of the status of judges appointed by the

Ukrainian authorities. The judges who are loyal to the Russian authorities were mostly allowed to administer justice. This resulted in the fact that, in separate cases, the court was passive towards the prosecution party's abusive authority or even demonstrated intrusion into the process of court investigation, acting in the interest of the state prosecution or the preliminary investigation.

In separate cases, unhidden contacts of the judge, who considered the case, with the representatives of state prosecution and other law enforcement structures interested in the case results were recorded. The courts' manifestation of their active position was expressed with emotional actions which indicate violation of the impartiality principle.

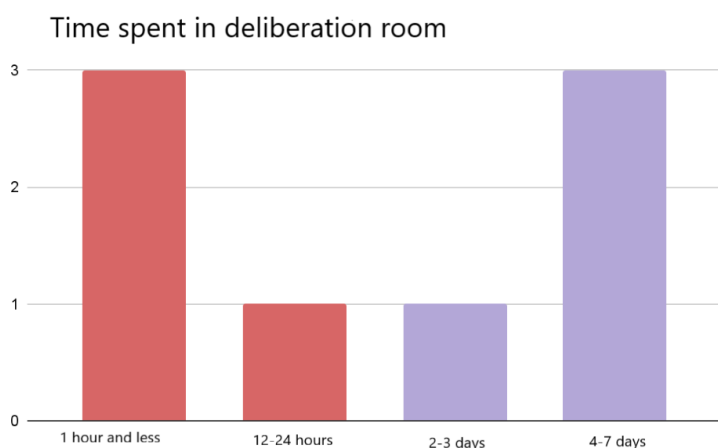
In at least 3 out of 8 analyzed cases the court was given recusals in connection with actions which indicate the court's interest in the case results. All the recusals towards the court were not granted.

Categories of judges according to factors that affect independence



CONCLUSIONS

In some cases, the indicators of time that judges needed to spend in the deliberation room in and issue the verdict can serve as an indirect sign of the absence of independence in administering justice. Out of 8 politically motivated cases in which these indicators were counted, in 5 cases during evaluation of all materials and evidence which required comprehensive and objective examination, judges issued quick judgments. So, for example, the court spent only 22 hours in order to issue the verdict in the criminal case against journalist Vladyslav Yesypenko.



PUBLIC CONSIDERATION:

The standard was not met. In all the analyzed processes, numerous facts of violation of standards which serve provide publicity and openness of the court consideration were recorded. The main form of violation of these principles was the misuse of the situation with the coronavirus pandemic to regulate and restrict the publicity of the politically motivated trials.

The universal approach of judges to this

issue is preserved in the occupied territory of Crimea. It is partially explained by the norms of the order of the Council of judges of the Republic of Crimea #223 of June 9, 2020 which states that 'only court officials and participants of the process are allowed into the court buildings in the territory of Crimea'. At the same time, the courts did not take into consideration the circumstance that all restrictions regarding the threat of coronavirus infection were canceled in other spheres of life and state authorities in the territory of Crimea in 2021.

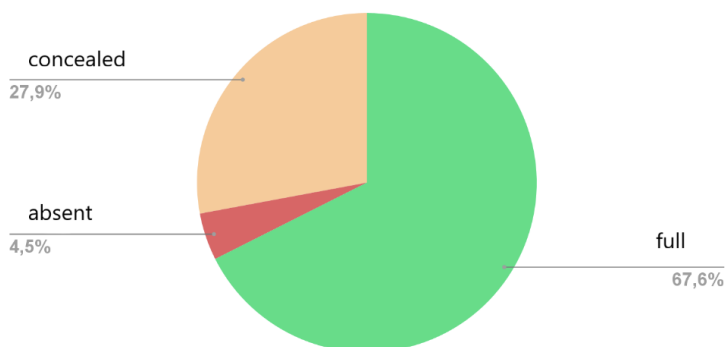
The public character of hearings protects the parties from administering justice with no control of the public; it is one of the tools of encouraging trust to the court. The right to open court in Crimea is significantly limited, which results in the undermining of trust to the judicial system in general. In comparison with the previous research period (2018-2021), this part of provision of standards of fair justice continues to degrade. The court provided presence of a limited number of public members only in 1 case out of 8 during the whole process.

Practices of restricting public access to information about a court consideration have systemic character (so, in 27,9% of cases the data about the surnames/surnames of defendants and the parties in

CONCLUSIONS

the case was hidden, and in 4,5% of cases the information about the hearing was not posted at all or was not posted on time).

Information on the official websites of courts:



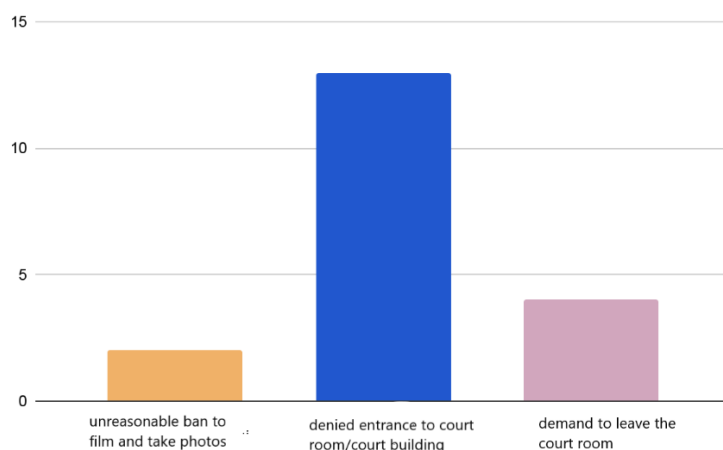
A considerable part of court decisions in the research segment was not published (the verdicts were not published on the websites of the courts of the first instance in 4 out of 8 cases, and also in 1 case out of 6 orders on consideration of appeals). Reading of the verdicts was held in an open trial in 1 out of 5 cases.

A significant number of cases of interference with journalistic activity during the coverage of politically motivated cases deserves special attention. In the analyzed court processes, 19 facts of violating the rights of journalists were recorded (in 13 cases, journalists were not allowed to the hearing, in 2 cases they were banned to film outside the court building or during the time when the trial was not held, in 4 cases they were unlawfully removed from the court room during the interrogation of FSB officers).

It should be noted that the figures refer only to the cases included in the research.

However, one of the general trends in the provision of public justice in Crimea is the practice of mass detentions of people who come to participate in court proceedings as court listeners. In 2022, at least 3 such actions took place, as a result of which 5 civilian journalists were detained and placed under administrative arrest. This practice affects the overall publicity of the courts due to the unwillingness of journalists to constantly risk imprisonment for trying to cover politically motivated trials.

Types of violations of the right of the media :



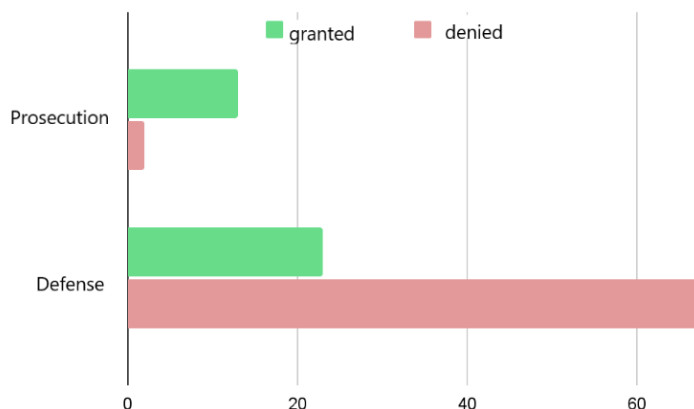
EQUALITY OF THE PARTIES:

The standard was not met. In all the processes, violation of standards that serve provide equality and adversarial parties is recorded. In most cases, preferences for the prosecution party are noticed, as well as deliberate deprivation of the defense party of its right to use all present opportunities to prove its position.

CONCLUSIONS

During consideration of motions that were made by the parties, a clear benefit in granting the prosecution party's motions was seen. In particular, in trials that were the subject of monitoring, the defense's motions granted by the court comprised 25%, while granting the prosecution's motions comprised 87%.

Court's attitude to consideration of parties' motions



Violation of the principle of equality and adversarial parties undermines the legitimacy of court judgments. The practice used by courts puts defendants in vulnerable conditions with the clear benefit of the prosecution's party. In particular, in 6 out of 8 cases, the restriction of the defendant and defense's right to interrogate witnesses who testify against him was recorded.

The selectivity of the court in appointing an examination on the parties' motions or adding documents that are important to determine the truth deserves special attention. So, for example, in the case against Mustafa Dzhemilev, the court granted the motion of the prosecution about conducting additional forensic ballistic examination of the ammunition, and earlier it declined the defense's

motion about conducting a number of examinations.

Also, preferences for the prosecution party concerned the activity connected with demanding documents and other materials that are important to determine the truth. For example, in the case against journalist Yesypenko, the court declined the defense's request for information about the billing of the mobile phone, about the demanding of the registers of the expertise materials of the operational investigation activity.

At the same time, the court granted the prosecution party's motion about demanding the conclusion of the inspection results from the military investigation committee.

In at least 2 analyzed cases, the informal contacts of the court with the state prosecution party outside the courtroom were recorded (in particular, in the criminal case against Rustem Osmanov) and performance of the defense party's duties by the court itself (in the case against 3 independent lawyers). In the case against Kostyantyn Shyryng, the defense appeared to be deprived of the possibility of full legal assistance due to the non-provision of necessary medical aid to the defendant.

There are some other aspects that are worth attention:

CONCLUSIONS

- restriction of the right to defense (the court restricted the number of defenders in the trials against the independent Crimean lawyers);
- ignoring inappropriate processional behaviour (like, for example, the interrogation of a secret witness in the presence of unauthorized persons in the case against the 'Jehovah's Witnesses' or insults from the prosecution party in the case against journalist Yesypenko);
- the court's unmotivated removal of the defense's questions to the witness with the absence of similar actions during the interrogation of the witnesses to prosecution by the prosecution party (the case against journalist Vladyslav Yesypenko).

Apart from that, the trend of violating the principle of the defendant's participation in the trial is kept, which deprives the defendant of the opportunity to defend himself and be listened to. In particular, in the case against Mustafa Dzhemilev, the text of response of the FSB authorities to the request made by Armyansk city court was announced, according to which the ban on entry to Russia issued to him was extended to 15 years. Since the Russian authorities spread the activity of their decisions to the territory of Crimea, the defendant was deprived of an opportunity to participate in the process due to the current ban on entry.

PRESUMPTION OF INNOCENCE:

The standard was not met. In all the processes, facts of violating the standards that serve to preserve the presumption of innocence for the defendant was recorded. In 4 cases, the violations concerned keeping the defendants in 'aquariums' or conveying them to the hearings, which forms the image of a guilty person in advance.

In 3 politically motivated cases, the presumption of innocence was violated due to unbalanced publications in the press and statements of political leaders or civil servants. As a matter of fact, persuasion of the public, particularly via public spaces, that the person is guilty without a final judgment, substitutes necessary justice and limits the role of justice only to formal fixation of the idea and choice of the restraint measure. The influential pro-governmental media that broadcast in Crimea actively assisted to the formation of the image of guilty persons regarding the participants of a half of the monitored cases before the court judgment came into force. For example, in the period of trials, the press quoted the accusatory statements made by the heads of the occupational authorities (particularly, by the head of Crimean parliament Volodymyr Konstantynov), and some publications with 'hate speech' were noted, which by itself is significant pressure on the court and violation of the presumption of innocence.

RECOMMENDATIONS TO UKRAINE

1. To conduct efficient investigations of the violations of the norms of international humanitarian law in Crimea due to gross violations of standards of fair justice in cases of politically motivated persecutions, by in particular, including existing or new international mechanisms into the investigation process.

2. Regarding persons involved in politically motivated persecutions in the territory of occupied Crimea, to conduct work on qualifying their unlawful actions, measures on their search and placement in sanction lists.

3. To include the persons persecuted due to political motifs into a list of people who suffered from the military aggression and to provide for the possibility to give them social and medical aid after their

release, and before that period – social aid for their relatives.

4. To national human right defending bodies, including the Office of the Human Rights Ombudsman of the Verkhovna Rada of Ukraine, to do all possible actions within their mandate for the victims of politically motivated persecutions in Crimea to be released.

5. To the bodies of power, including diplomatic missions, to actively inform the population of Ukraine and the international community about the situation with human rights in occupied Crimea and also to make diplomatic steps for the victims of politically motivated persecutions in Crimea to be released.

RECOMMENDATIONS TO INTERNATIONAL INSTITUTIONS AND CIVIL SOCIETY

1. To assist organizing monitoring on adherence to the standards of fair justice in cases of politically motivated persecutions in Crimea. To demand maximum possible documenting of violations of these standards as one of indicators of war crimes of the occupying country.

2. To regularly initiate and hold discussions of programs and concrete actions on releasing the persons persecuted in Crimea on political motifs,

and also to inform the global community about violations of international humanitarian law and human rights in Crimea.

3. To initiate, develop and adopt an international agreement about the creation of an international institution whose objective would be the work on releasing illegally imprisoned civilians, including those who underwent politically motivated persecution.

LIST OF REFERENCES

LITERATURE, OFFICIAL WEBSITES:

1. Crimean process: problems of adherence to standards of fair justice in politically motivated cases between 2016 and 2018, 2018, <https://crimeanprocess.org/krymskij-procress-problemysoblyudeniya-standartov-spravedlivogopravosudiyav-politicheskimotivirovannyh-delah-s-2016-po-2018-gg/>
2. Crimean process: problems of adherence to standards of fair justice in politically motivated cases between 2018 and 2021, 2022, <https://crimeanprocess.org/wp-content/uploads/2022/11/rus-version-report-2.pdf>
3. Trial Monitoring. A Reference Manual for Practitioners / Office for Democratic Institutions and Human Rights (ODIHR), 2012
4. Rule of law tools for post conflict states, Vetting: an operational framework, 2006 <https://www.ohchr.org/sites/default/files/Documents/Publications/RuleoflawVettingen.pdf>
5. Ruling of the Constitutional court of the RF of 05.02.2015, <http://sutyajnik.ru/documents/4788.pdf>
6. Guideline on article 6 of the European Convention on Human Rights and Fundamental Freedoms, 2014 https://www.echr.coe.int/Documents/Guide_Art_6_criminal_RUS.pdf
7. Guidelines on International Human Rights Fact-Finding Visits and Reports by Non-Governmental Organisations, https://www.ibanet.org/Fact_Finding_Guidelines.aspx
8. Court judgments of ECHR, Case “Ismoilov and Others v. Russia” <https://hudoc.echr.coe.int/eng>
9. Court judgments of ECHR, case “Raza v. Bulgaria” <https://hudoc.echr.coe.int/eng>
10. Official website of the 'Supreme court of the Republic of Crimea', http://vs.krm.sudrf.ru/modules.php?name=docum_sud&id=143
11. Official website of the 'Supreme court of the Republic of Crimea', http://vs.krm.sudrf.ru/modules.php?name=docum_sud&id=141
12. Court judgments of ECHR, Case “Butkevicius v. Lithuania” <https://hudoc.echr.coe.int/eng>
13. Imprisonment as a measure of restraint: validity of use and extension, O. V. Kachalova, <https://rm.coe.int/kachalovhandbook-detention-as-a-measureof-restraint-rus/1680a1cb64>

LIST OF REFERENCES

MEDIA:

Informational agency TASS,
<https://tass.ru/proisshestiya/12098623>

Informational agency RIA-Crimea,
<https://ria.ru/20210810/svideteli-1745196647.html>

Informational agency 'Interfax',
<https://www.interfax.ru/russia/837404>

Informational agency 'Kryminform',
https://www.c-inform.info/news/id/103944?fbclid=IwAR16dF-fLCzLesOdh2YAdm2g1SQ3UTy2tu2BIqtVfdyjLeSV2l7Oi_RriOE

Television of Sevastopol,
<https://sev.tv/news/49476.html>

Channel 'Crimea-24',
<https://crimea24tv.ru/content/otkroveniy-a-shpiona-amerikanskoe-radi/>

Newspaper 'Vzglyad',
<https://vz.ru/news/2021/8/10/1113194.html>

Newspaper 'Kommersant',
https://www.kommersant.ru/doc/4349277?utm_source=twitter.com&utm_medium=social&utm_campaign=amplifr_social

newspaper 'Russian Gazette',
<https://rg.ru/2021/03/18/reg-ufo/arestovannyj-v-krymu-shpion-rasskazal-o-zadaniiah-svr-ukrainy.html>

Website 'Human Rights in Russia',
<https://hro.org/node/26757>

Website of the Zmina Human Rights Centre,
<https://zmina.info/ru/news-ru/u-simferopoli-sud-zminiv-virok-u-krajinskij-aktivistci-larisi-kitajskij/>

Project 'Radio Liberty' – Krym.Realii,
<https://ru.krymr.com/a/news-sud-otkazal-v-apellyatsyi-blogeru-memedeminovu/30103098.html>

Website 'Crimean Process',
<https://crimean-process.org/sud-podderzhal-prokurora-podopolnitelnoj-ekspertize-patronov-iz-dela-mustafy-dzhemileva/>,
<https://crimean-process.org/sud-podelu-dzhemileva-otkazal-zashhite-v-bolshinstve-hodatajstv-po-issledovaniyu-dokazatelstv/>

Online media 'Compromat Group',
<https://compromat.group/news/47258-fsb-zaderzhala-v-krymu-verbovschikov-svideteley-iegovy.html>

and a number of other outlets