



Detention of a person in Simferopol, September 4th, 2021, photo «Crimean Solidarity»

PERSECUTION OF 4th SEPTEMBER SIMFEROPOL EVENT PARTICIPANTS:

HUMAN RIGHTS REVIEW











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1. INFORMATION SOURCES

To collect and review the information, the Crimean Human Rights Group (CHRG) has used Interviews of peaceful assembly participants;

Copies of procedure documents

Open source data, including personal pages in social networks and Crimean Solidarity page. *The CHRG has copies of relevant documents and interview records mentioned in this review.*



2. PRECONDITIONS

In February 2014 an international armed conflict caused by the aggression of the Russian Federation (hereinafter referred to as the RF) against Ukraine, started that resulted into the occupation of the Autonomous Republic of Crimea and the city of Sevastopol. Without any respect to the international humanitarian law norms, the RF extended the provisions of the criminal and administrative codes of the Russian Federation to the occupied territory. Since 2014, the occupation authorities have been searching and arresting on a wide scale, falsifying criminal and administrative cases against the residents of the peninsula. Moreover, the facts of enforced disappearances of activists were also recorded, that have been never investigated. Most of those who have been victimized by this activity of the occupation authorities are Crimean Tatars.

On September 3 and 4, after searches made by the RF FSB men, 5 Crimean Tatars were taken out in an unknown direction: September 3 - Eldar Odamanov; at night of September 4 - Asan Akhtemov, Aziz Akhtemov and Shevket Useinov, early in the morning of September 4 - Nariman Dzhelialov, first deputy chairman of the Mejlis of the Crimean Tatar people, a well-known Crimean Tatar public figure.

It is important to note that torture and other illegal methods of investigation have been repeatedly used against the victims of such "arrests," in fact they have been just abducted by the FSB men. In some cases, the whereabouts of the abducted are still unknown. By 2021, several dozens of people had become victims of enforced disappearances as interpreted by the International Convention for the Protection of All Persons from Enforced Disappearance, including Reshat Ametov, Ivan Bondarets, Valeriy Vashchuk, Vasiliy Chernysh, Timur Shaimardanov, Seyran Zinedinov, Isliam Dzhepparov, Dzhavdet Isliamov, Ervin Ibragimov and others. All these cases of enforced disappearance are not investigated in the territory of the occupied Crimea.

Immediately after the arrests on September 3 and 4 the RF FSB and other bodies of the occupation authorities stated that they did not know anything about the whereabouts of the abducted, and they refused to admit the fact of the arrest.

Considering the illegal actions of the security forces, the official position of the occupation authorities and previous cases of disappearances of Crimean Tatars, the relatives of the detainees and local activists had reasonable grounds to fear for the life and health of Nariman Dzhelialov, Asan Akhtemov, Aziz Akhtemov, Eldar Odamanov, Shevket Useinov. The occupation authorities had to notify relatives and lawyers of the whereabouts of the detainees. These illegal actions of the RF FSB of the Russian Federation caused a wide public attention.



3. DESCRIPTION OF 4th SEPTEMBER EVENTS

On September 4, local residents of Crimea, most of them being relatives of the detained Crimean Tatars, civilian journalists and activists, began to assemble at the **building of the Federal Security Bureau of the Russian Federation in Crimea, 13 Franko Boulevard in Simferopol.** People were coming as personally decided, without any pre-coordination of what-to-do. From 11:00am to 04:30pm. According to the information of this assembly participants, by 04:30pm there had been about 50 people standing in front of the building. Several journalists and bloggers also came. Photos and videos from the spot as well as information from eyewitnesses confirm that these people were not in one specific place, but were standing in groups of several on Franco Boulevard and in surrounding streets. For example, one group of 6 people was in the minibus parked nearby. The photo published by Elmaz Qırımlı 1 at 04:29pm, one can see no more than 30 people standing in groups of 4 to 6. As testified by witnesses, these testimonies were later used by the occupation authorities as evidence for the prosecution, there were 30-50 people on Franco Boulevard. Some of them were wearing individual protective masks.



Illustration 2. Situation before detentions started. Photo by Elmaz Qırımlı



Illustration 3. A prison bus has arrived. Crimean Solidarity Video screenshot.

At 04:42pm Elmaz Qırımlı started streaming on Facebook. In the video, a man wearing the uniform of the Russian police (Police Major Alexei Stetsenko) is megaphoning that 'people shall wear masks in the crowded places; that Art. 20.2.2 of the Code of Administrative Offenses of the Russian Federation provides for administrative responsibility for attending a place of mass presence of citizens, that caused a violation of law and order, and that on this basis he demands to stop the offense and immediately break up otherwise everyone will be taken to the police stations ". One can see also a bus to take away later the detained participants of the peaceful assembly, on the video. The video was filmed at the intersection of Franko Blvd. and Dzerzhynskogo Str. It should be noted that the video recorded the presence of people wearing the protective masks as required by anti-covid restrictions, so the demand of Major Stetsenko to break up had no legal grounds.

At 04:48pm Elmaz Qırımlı published a photo with a police bus arrived, and OMON and ROSGVARDIA men being inside.



Illustration 4. Arrival of ROSGVARDIYA police bus, with OMON men inside. Photo by Elmaz Qırımlı



Illustration 5. Detentions started. Crimean Solidarity Video screenshot.

In 04:51pm blogger Rolan Osmanov started streaming on Facebook from Franko Blvd., at intersection of Franko Blvd. and Dzerzhynskogo Str. One can see on the video that an OMON column is moving at 04:51pm from the ROSGVARDIYA police bus towards the prison bus. At 04:52pm, as recorded, OMON men and the police started detaining people standing in the streets surrounding the FSB building. The detainees were taken into the bus, being in fact, searched before that. Doing this, an OMON man hit one detainee's head against the bus. At 04:55pm, with the words "turn it off", Rolan Osmanov, who had been filming the video, was detained. His detention was accompanied with obscenities against the bus. Just after that a Crimean Solidarity journalist was detained, though he immediately announced that he was a journalist. At 04:58pm Zarema Akhmetova and Arsen Akhmetov, mother and brother of Asan Akhtemov, were detained. Zarema Akhmetova told the OMON men that her son Arsen had come here to check whether she was OK, and a one-year-old infant was waiting for the father at home. One of OMON men responded to this: 'Everyone has children, he should have thought before coming here'.



Illustration 6. A person detained far from the major group of meeting. Screenshot of video by Lutfiye Zudiyeva

Several detainees, when asked later, informed that after the bus had been filled with people, OMON men got inside. One of them hit one of the detainees in the kidney area (presumably this was Ruslan Abdurashitov) for looking at him. Pushed, the man fell down. Then the same OMON man, as Seitnebi Ramazanov said, turned forcedly Rolan Osmanov's head so that he could not see him.

At 06;16pm the latest, the ROSGVARDIYA police bus and prison bus returned to Franko Boulevard. This time they were detaining the people who were in cars parked nearby. This is confirmed by the testimony of the detainees. According to them, the policemen approached a minibus with 6 people inside (Kurtseit Abdullayev, Ali Aliyev, Kiazim Ametov, Shevket Kaybullayev, Ibragim Chegertma and Lemmar Yunusov), and offered to transfer to the bus brought by the police. In addition, they reported that people detained



Illustration 7. Detention of Arsen Akhtemov. Screenshot of video by Rolan Osmanov

in Mendeleyeva Street, i.e. at a distance of 300-400 meters from the FSB building, were also put into the bus. Vladlen Seydametov was detained at Tsentralny District police department for recording video at the public place. Kurtseit Abdullayev informed the CHRG that he had been beaten when detained.

All the detainees report that on being detained they were not explained a reason of detention and explained their rights.

The detainees were taken to the Tsentralny District police department No 3 (20 Futbolistov Str.), and «Zheleznodorozhnyi» District police department No 1 (1a Pavlenko Str.). The CHRG has information about 53 detainees confirmed who were kept in the police departments for more than 3 hours. Most of them were released around 10:00-11:00pm, but some were kept until 00:30am. The people were released only when reports under RF CoAO Article 20.6.1 (Non-compliance with the rules of conduct in an emergency or with the threat of its occurrence, or the so-called article on «anti-Covid restrictions") had been drawn up against them. Two detainees - **Eskender Akhtemov** (father of Aziz Akhtemov) and **Arsen Akhtemov** (brother of Asan Akhtemov) - were placed in the temporary detention center. They were charged with an offense under RF CoAO Art. 19.3. (Defiance to the request of a police officer), and the next day the «Kievskiy District Court» of Simferopol ruled to place them under administrative arrest: Eskender Akhtemov – for 15 days of arrest (judge Denis Didenko, citizen of Ukraine), Arsen Akhtemov – for 10 days (Anton Tsykurenko, citizen of Ukraine).

In the next few weeks, the "Kievskiy District Court" held hearings on administrative proceedings against the detained peaceful assembly participants. There was only one ruling to close the proceedings, as the judge decided to close the proceedings for lack of corpus delicti. The detained young man did not attend in a peaceful spontaneous assembly, he just was walking by, but because of his appearance ("Crimean Tatar nationality") he was also detained. For the rest of the participants, decisions were made on fines ranging from RUR1,000 to 30,000. As at October 12, the CHRG recorded 45 decisions on fines under RF CoAO Article 20.6.1 and 2 administrative arrests under RF CoAO Article 19.3 against participants of 4th September events in Simferopol.

4. VIOLATION OF HUMAN RIGHTS ON DETAINING AND PERSECUTING FURTHER 4th SEPTEMBER PARTICIPANTS

4.1. PROHIBITION OF TORTURE, INHUMAN OR DEGRADING TREATMENT

The stream made by **Rolan Osmanov** shows that an OMON man was kicking one of the detained activists' legs during the "examination", and pushing him head forward to hit on the bus. The Crimean Solidarity video recorded how Rolan Osmanov was being treated in the same way. Zair Smedliayev informed that he had observed that at least four detainees had been treated like that. He was one of the first to enter the bus and was at the window under which the «examination» was being carried out, so he had the opportunity to directly see the actions of the security forces.



Illustration 8. Search and a moment when one of detainees was pushed to hit his head against the bus. Screenshot of Rolan Osmanov's video

In addition, the detainees report that before the first group was taken away, one from the group had been severely kidney punched by an OMON man. The blow was so strong that the victim fell down on the floor. This is confirmed by three interviewed eyewitnesses among the detainees. One of the detainees said that at the Tsentralny District police department the policemen beat and detained journalist Vladlen Seidaliyev, who was filming what was happening at the police department.

Photos and videos confirm that the peaceful assembly participants did not resist the police, did not commit aggressive or other actions that could threaten other people, etc. The use of violence against the detainees was unreasonable and disproportionate. Thus, by their actions, the security forces did not seek to prevent a "threat to public order," since there was no such threat. Their behavior and actions rather demonstrate the desire to intimidate, offend, and humiliate the detained people.

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Illustration 9. Search and a moment when Rolan Osmanov was pushed to hit his head against the bus. Screenshot of Crimean Solidarity video

Moreover, the acts of force were not indicated in the reports, and the judges ignored these facts. Thus, the security forces men will remain unpunished for their aggression as it has happened before.

These facts give grounds to claim inhuman and degrading treatment of the detained participants of the peaceful assembly.

4.2. RIGHT TO LIBERTY AND SECURITY

According to information collected by the CHRG, at least 53 people were detained on September 4 on charges of attending a spontaneous "unauthorized" assembly. The first wave of arrests took place between 04:52pm and 05:00pm near the building at 12 Franko Boulevard / 9 Dzerzhynskogo Str.. The second wave took place no earlier than 05:40pm, starting with detaining the people who were in cars parked nearby. Then the bus moved away and stopped at the intersection of Franko Boulevard and Mendeleyeva Street, where detaining passers-by with «Crimean Tatar appearance» began. The last to be detained, according to the available information, was journalist Vladlen Seydaliyev – at the building of the Tsentralny District police department.

When detaining the RF security force men did not indicate the reasons of detention and did not explain the detainees their rights. One can here on the video that 'OMON' and the policemen were saying only 'come down' and 'keep moving' when detaining. After the detention the people were transported to the 'Tsentralnyi' and 'Zheleznodorozhnyi' district police departments where they were kept for 4 to 6 hours. All interviewed report that they were not provided with copies of the reports of detention. All administrative offence reports were drawn up after the detention, in the police department building.

Several facts should be noted:

A bus for transporting the detained to the district police department had been parked already when RF Police Major Stetsenko demanded the present to break up.

The bus blocked the exit from Dzerzhynskogo Street to Franko Boulevard, i.e. a potential way for the people being in Dzerzhynskogo Street was cordoned off.

The OMON and Rosgvardiya came 5 minutes after Major Stetsenko had demanded the present to break up.

The detained were not standing as one group. Some people were in the cars, some were in Franko Boulevard, some were in Dzerzhynskogo Street.

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The video by Lutfiye Zudiyeva shows how 'OMON' men were running to detain a person being at about 50m far from the others7.

These facts demonstrate that the purpose of occupation authorities was not to ensure a mask regime and to protect health of citizens as officially declared. The actual reason was an intention to stop attempts of people to get information about the whereabouts of Nariman Dzhelialov and other Crimean Tatars detained under the case as well as to prevent any peaceful assembly at the FSB building.

Considering the abovementioned, it may be argued that the actions to detain participants of the spontaneous peaceful assembly as well as the people being nearby on September 4 constitute a violation of the right to liberty and security of person. Moreover, this practice of groundless and unlawful detentions is common in the occupied Crimea.

4.3. RIGHT TO A FAIR TRIAL

After the detention at least 53 reports under RF CoAO Article 20.6.1, and 2 reports under RF CoAO Article 19.3 were drawn up against the peaceful assembly participants. As on October 11, 45 hearings under RF CoAO Article 20.6.1 and 2 hearings under RF CoAO Article 19.3 were held at the 'Kievsky District Court' of Simferopol based on these reports.

4.3.1. PRINCIPLE OF ADMINISTERING THE JUSTICE ONLY THROUGH COURT

Pursuant to international humanitarian law norms (Article 64 of the IVth Geneva Convention), the RF as Occupying Power shall not change the composition of the judicial bodies and enforce its criminal laws in the occupied territory of Ukraine. *However, the 'courts' in Crimea have been established and functioned, violating the IHL norms, and court proceedings in such courts are held in violation of the principle to administer the justice only by court.*

4.3.2. ADVERSARIAL PRINCIPLE

All charges under RF CoAO Article 19.3 and Article 20.6.1 were based on testimony of two witnesses. They are salespeople of MAKSIMUM shop located at 12 Franko Boulevard:

Irina Andreyushkina who states that people of 'Asian' and 'Tatar' appearance started assembling near the shop at 01:00pm, and about 03:00pm their number increased up to 50 approximately, some of them wearing masks, and some not. She confirms that the detained were moved away in the bus by 'OMON' and policemen.

Aleksandr Bondarenko who states that citizens of 'Oriental' appearance assembled at the FSB building, by 03:00pm their number had reached over 50; they were constantly waling along the FSB building, they all were not wearing masks, and they were behaving aggressively, trying to get into the FSB building, and cit. 'kept on committing an administrative violation until they were not moved by the police to one of departments'.

If some of the testimony of Irina Andreyushkina at least corresponds to the photos and videos from the scene, the testimony of Aleksandr Bondarenko is unequivocally untrue, since the photos and videos recorded that many of those present were wearing masks, he could not know exactly where the detainees were taken , and also could not assess their actions as an administrative offense. The testimonies of both witnesses only confirm the fact that people were on the boulevard, without specifying anyone. These testimonies cannot serve as evidence against any particular person.

During the hearings, the defense petitioned to invite prosecution witnesses for questioning, to have a prosecutor present and to interrogate the policemen who had been detaining and drawing up the reports. The defense lawyers also insisted on interrogating defense witnesses and adding evidence of innocence to the case. However, the «judges» denied the defense's motions and relied on only two witnesses for the prosecution. In fact, the "judges" acted as the prosecution.

The hearing on the proceedings against **Shevket Kaibullayev**, the editor of the Crimean Tatar newspaper «Avdet», would be indicative in this case. He was detained during the «second wave» not earlier than at 05:40pm, when he was in the van with five other people. They were required to transfer from the minibus to the police bus. The defense petitioned the following:

to interrogate a defense witness who was in the van and was detained together with Kaibullayev;

to interrogate policemen who detained and drew up the report;

to photo and video the hearing and to make the records;

to interrogate the prosecution witnesses, having pointed out that their testimony did not prove Kaibullayev's being in the boulevard among the spontaneous peaceful assembly participants and not wearing the mask.

Similarly to other hearings in this case, «judge» Vera Serikova rejected all the defense motions, stating that «there is no need for this, and all the necessary evidence has already been provided.» She gave permission to photo only the "accused" and his defenders. Then the «judge» Vera Serikova found Kaibullayev guilty of committing an administrative offense. She indicated in the ruling that Kaibullayev had attended the assembly at 05:40pm, which was allegedly confirmed by the report, testimony of witnesses and the photo table. However, Shevket Kaibullayev is absent on this photo table.

The ruling against Kaibullayev is a full copy of the rulings issued against at least seven other people (Server Aliyev, Nedim Amzayev, Zarema Akhtemova, Ramazan Susanov, Ruslan Umerov, Ibragim Cheregtma and Eskender Emiramzayev). This suggests that «judges» do not consider each case on the merits, but simply duplicate decisions and cases against the detainees.

During the hearing in Vladlen Seydaliyev's case, "judge" Mikhail Belousov refused to the defense a motion to attach a video, proving that Seidaliyev had been detained under the building of the 'Tsentralny' District police department, that is, at a distance of more than 3 km from the FSB building. However, Belousov ignored this evidence and indicated the report on an administrative offense and the testimony of witnesses Bondarenko and Andreyushkina as evidence to the police version.

One of the proofs that the proceedings against the spontaneous peaceful assembly participants at the 'Kievskyi District Court' of Simferopol was just a formality, and the documents were in fact duplicated with only the names changed, is the ruling of "judge" Serikova sent by mail to **Kurtseit Abdullayev**. It states that after reviewing the case of **Ruslan Umerov**, it was decided to agree to hear the case of **Alim Mamutov**, i.e. when the rulings were copied even the names of the 'accused were forgotten to change.

In the judgement on sentencing **Kurtseit Abdullayev**, «judge» Mikhail Belousov indicated his working age as the» basis «for increasing the amount of fine, though Abdullayev is 65 years old (the retirement age in the Russian Federation and Ukraine). The 'judge' further stated that Abdullayev allegedly had not regretted of the offense, but Abdullayev had not been present at the hearing, so the "judge" wasn't able to know this. The further analysis of the rulings shows that the judgement against **Kurtseit Ablullayev** is a copy of the judgement against Abliamit Seytkhalilov, in which only the names of the "accused" have been changed. Abliamit Seytkhalilov is 33 years old, and he was present at the hearing. The judgement against **Zair Smedliayev** (only changes are the family name and the amount of fine in figures, while the amount of fine in words left unchanged) and against **Vladlen Seydaliyev** (who was not detained on Franko Boulevard) are also copied of the judgement against Abliamit Seytkhalilov. It is noteworthy that all of these judgements indicate that the assembly was held "in support of Odamanov and Useinov, who were detained for committing a criminal offense against the security of the state," but they were charged only under RF CoAO Art. 19.3. Thus, the "judges" indicated deliberately untrue information in their judgements.

The aforementioned facts confirm that during these hearings the adversarial principle was violated, since the defense was unable to state evidence of innocence and to invite witnesses to the defense, and the "judges" functioned as the prosecution.

4.3.3. PRINCIPLE OF PUBLICITY

Of the 47 court sessions, only one is known (case of **Shevket Kaibullayev**), when the court granted the defense's motion to have the audience present at the open court session. In all other cases, the audience was not allowed into the courthouse, referring to the valid «restrictions imposed as preventive measures against the spread of a new coronavirus infection.»

Of the 47 court sessions, only 3 sessions are known, when the court granted requests for photo and video recording of the proceedings, including 2 - for the defense and only 1 case - for the audience admitted to the session. In one of these cases, the court allowed taking photos during the court session break, having exceeded its powers, covering the session and not covering the breaks in the session.

The judgements on the results of considering the proceedings on administrative offenses do not reflect usually the decisions taken by the "court" on the stated motions for permission to photograph and video record the proceedings. For instance, the judgement on the administrative offence against **Islam Yurdamov** does not indicate the decision taken regarding the motion to photograph and video record the proceedings. It is written only that the court explained the valid legal norms on the publicity of judicial proceedings to the participants.

The official website of 'Kievsky District Court of Simferopol' did not publish any information on considering the cases of **Arsen Akhtemov** and **Eskender Akhtemov** that were found guilty of administrative offence under RF CoAO Article 19.3 and sentenced to administrative arrest on September 6. On September 17 no information on considering the administrative offence case against **Riza Seytveliyev** was available at the website of 'Kievsky District Court of Simferopol'. The information on considering his case was published on the 'court' website' later.

Of the 47 court sessions held against persons detained en masse at the FSB building on September 4, as of October 12, only 23 decisions on the results of considering the cases were published on the official "website of the Kievskiy District Court".

Prohibition of video recording of hearings, refusal to make session reports, refusal to admit audience to sessions, concealment of information about the session results violate the principle of the publicity of judicial proceedings.

Violations of principle of administering the justice only through court, adversarial principle, and principle of publicity prove the right to a fair trail was disrespected in the course of administrative proceedings against the 4 September spontaneous peaceful assembly participants.

4.4. FREEDOM OF SPEECH

Among those detained on September 4 were four journalists and bloggers who were there to record what was happening: Vladlen Seidaliyev, Rolan Osmanov, Nuri Abdurashitov and Ayder Kadyrov. They, together with the rest of the detainees, were taken to the police station, where reports were drawn up against them under RF CoAO Art. 20.6.1 (Non-compliance with the rules of conduct in an emergency or with the threat of its occurrence). Vladlen Seydaliyev was detained at the building of 'Tsentralny' District police department notably for filming what was happening. On the streams by Rolan Osmanov and Ayder Kadyrov, one can hear how, being detained, they were informing the police that they were journalists. Shevket Kaybullayev, editor-in-chief of the AVDET Crimean Tatar paper, was also detained on September 4.

4.5. FREEDOM OF ASSEMBLY AND ASSOCIATION

Regarding the freedom of peaceful assembly, the following facts should be highlighted:

Each of participants came independently reacting to the illegal actions of RF FSB men – abduction of 5 Crimean Tatars including Nariman Dzhelialov, the first deputy Chairman of Crimean Tatar People Mejlis; Victims of similar abductions earlier were tortured and some of them remained unfound. The participants of this peaceful assembly intended to attract the attention to the illegal FSB actions to protect the detained from the torture and other illegal investigation actions. Thus, the peaceful assembly on September 4, 2021 on Franko Boulevard should be considered as **spon**taneous peaceful assembly of citizens reacting on the RF FSB illegal actions.

The Russian Federation has extended its legislation norms that enshrined the "notification procedure" for holding peaceful assemblies, to the Crimean territory. In practice, this requires residents of Crimea to obtain permission from the occupation authorities to hold any peaceful assembly, which, in turn, significantly limits freedom of assembly. The OSCE Guidelines on Freedom of Peaceful Assembly indicate that even when a power insists on advance notification, the law should explicitly provide for an exception from the requirement in case of spontaneous assembly.

The Russian Federation legislation regulating freedom of peaceful assembly (Federal Law 54-FZ of 19 June 2004) does not consider the concept of «spontaneous assembly» and provides for the mandatory filing of notifications and obtaining permission from the authorities to hold a peaceful assembly. This means that any spontaneous peaceful assembly is «illegal» from the point of view of the Russian Federation legislation, since it is not authorized by the occupation authorities.

Moreover, the participants in the peaceful assembly were persecuted and punished by the occupation authorities.

Detaining and persecuting further the participants in the spontaneous peaceful assembly on 4 Franko Blvd. constitute a gross violation of freedom of peaceful assembly.

4.6. PROHIBITION OF DISCRIMINATION

The witnesses to the prosecution described the assembled as citizens of 'Asian', 'Oriental', 'Tatar' experience and as 'Tatars' in the testimony.

Enver Aliyev did not participate in the peaceful assembly, but was detained when passing by. The reason for his detention was his appearance.

One case see a Slavic looking man not wearing a mask who was in the close vicinity to the detained, on the video made by Rolan Osmanov at the detention site. But OMON and the police did pay any attention to him.

There were only two persons among the detained who were not Crimean Tatars. These were activist **Irina Kopylova** and **Vitaliy Mekhonoshyn**, featuring a thick beard that might become grounds for the police to mistake him for Crimean Tatar and detained.

One of the detained reported the CHRG after they had been detained on Franko Blvd, the bus stopped at the intersection of Franko Blvd and Mendeleyeva Str. (about 300m far from the FSB building), where the people were detained based on the 'Crimean Tatar appearance'.