

Statement for side-event

“Threats for Human Dimension Issues in Maritime Sector: Ukrainian Examples”

Human Dimension Implementation Meeting 2019 20 September 2019 13.15-14.45 Meeting Room 3

**Ongoing Violation the Indigenous Peoples` Rights
on Mineral and Biologic Sources in Waters around Crimea**

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Distinguished participants,

I want to remind You, that Crimea is a Native Land of three indigenous peoples, including Crimean Tatar People. Modern international standards foresee special collective and individual rights of Indigenous Peoples and their representatives on mineral and biologic resources of lands of their traditional settlement, including the rights on the maritime sources.

United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007, in article 25 confirms the right of indigenous peoples to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26 of this Declaration establishes that indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

More, article 27 of this Declaration, demands that states shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples` laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

The right of indigenous peoples to redress is fixed in the article 28 of Declaration, that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

More, regarding the article 29 of Declaration, indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the territories of indigenous peoples without their free, prior and informed consent.

Article 30 of this Declaration, demands that military activities shall not take place in the territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned. And, regarding the article 32 of this Declaration, indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

Convention on Biological Diversity, 1992 recognized the close and traditional dependence of many indigenous communities embodying traditional biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components.

All those rights of the Crimean Tatar People are brutally violated in Crimea by the Russia as a aggressor-state and not realised by the Ukrainian government. In modern conditions de-facto authorities in Crimea, controlled by Russian Government, and commercial entities, governed by such authorities and their certain representatives, act in some areas of mass excavation of mineral and biologic sources of Black and Azov Seas and Sivash Bay:

1) mass industrial production of gas and gas condensate on the Black Sea shelf adjacent to Crimea, by militarised platforms and pipelines with further usage of such gas as a fuel for two new thermal power plant, built for military purposes in Crimea since 2015;

2) mass industrial excavation of sand from the coastal sea bottom in Karkinit and Kalamita bays of the Black Sea, with further usage this sand in building the military objects in Crimea and relevant total destruction of the coastal maritime ecosystems and unique riparian territories like Baqual plat and Swan Islands;

3) industrial maritime fishery in Black and Azov Seas, Kerch Strait and Eastern Sivash Bay;

4) mass industrial excavation of mineralised waters of Western Sivash Bay for duties of chemistry plants in Krasnoperekopsk (Yeni-Kapu).

Also negative impact on the biologic maritime sources is done by pointed Crimean de-facto authorities and commercial entities by changing substantially the coastal nature complexes during industrial works in Yevpatoria, Saqi, Sevastopol also as for the Kerch Bridge. Also it happens via industrial pollution from Crimean objects on Russian Navy and from the chemistry plants in Armiansk and Krasnoperekopsk.

Russian de-facto authorities do not execute any demand of international law for recognition, realisation and protection of relevant rights of the Crimean Tatar People for those maritime resources. After illegal ban of Mejlis of the Crimean Tatar People in 2016 and mass discrimination of Crimean Tatars in Crimea, persecution the “Crimean Tatar extremism” by occupiers, even open discussion on those topics in Crimea or in Russia is absolutely impossible and dangerous for its initiators.

Alas Ukrainian government, that ratified the Convention, 1992 and recognised the Declaration, 2007 also does not execute own obligations for recognition, realisation and protection of relevant rights in the part of its modern practical possibilities in Crimean issue.

For example, Azov Sea and Kerch Strait, adjacent to Crimea, with all their resources, were declared in 2003 as “historic internal waters” of Russia and Ukraine – but nobody in governments of both countries did not never, as before 2014 so later, asked the opinion of the indigenous Crimean Tatar People and of its representative bodies for this issue.

Position of the Crimean Tatar People and of its representative bodies was never taken into account in work of the Ukrainian-Russian Commission on Azov Fishery, holding its annual sessions in framework of the bilateral Agreement, 1993 even after 2014. More, when in October 2018 Head of Mejlis of the Crimean Tatar People, Refat Chubarov initiatively attended the 30th Session of this Commission, held near Kyiv, and demanded to stop the criminal practice of passing the fishing quotas by Russian authorities to Crimean commercial structures – his demands were ignored. The relevant annual protocol of this Commission was postponed by later, in February 2019, signed by parties, rejecting all the demands of the Crimean Tatar authorised leader without any explanations.

Ukrainian Government till this moment tolerate the illegal excavation the waters of National Park in Sivash Bay for duties of chemistry plants in Krasnoperekopsk by the pump station, located in Kherson region.

More, Ukrainian Government in summer, 2019 proclaimed a contest for usage the part of the Black Sea shelf (“Dolphin” plot) with extremely short and non-transparent procedure, and later gave the rights for such usage to firm, controlled by Russian businessman. Later the results of this contest were cancelled, but anyway the position of the Crimean Tatar People and of its representative bodies was never taken into account in this proceeding.

We sure that the only possible way for full recognition, realisation and protection the rights of indigenous peoples of Crimea on maritime sources of Black and Azov Seas, adjacent to peninsula, on the grounds of the free, prior and informed consent, is the immediately adoption of the law of Ukraine on rights of the indigenous peoples with reflection all relevant international standards and best organisational and legal practice of OSCE participating states in indigenous issues.

Also we recommend Ukrainian government to refuse in shortest terms from the colonial, legally and morally invalid, condemnable and unjust, bilateral treaties with Russia regarding statute and regime of the Azov Sea, protection and usage of its sources, to implement for the Azov Sea and Kerch Strait full force of the relevant international legal norms, such as the UN Convention of the Law of the Sea, 1982.