



ASSOCIATION OF REINTEGRATION OF CRIMEA

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To International Maritime Organisation, International Labour Organisation, its Member States and other competent structures

Maritime Safety and Russian Agression against Ukraine: Ongoing Challenges regarding Resolution C/ES.35

Our Association of Reintegration of Crimea (ARC)¹, is non-governmental expert and human rights organisation², our expert researches are related with human rights of Ukraine's residents and ethnic groups, including their fundamental rights, right to development, also as with issues of the transitional justice for Crimean peninsula, with relevant economic, social and financial impacts. Since 2020 we sent more than 50 submissions and proposals to UN human rights' strictures, major part of them were published in the UN web-sources; we also inform the OSCE and Council of Europe on those issues.

Illegal occupation and attempted annexation of Crimea by Russia since 2014, as a part of Russian-Ukrainian interstate conflict, changed the situation in the region, including the maritime safety issues. Relevant systematic gross violations of the human rights and humanitarian standards, that were committed in last seven years by Russia in the Crimea, were condemned by the UN GA resolutions³, resolutions of the OSCE Parliamentary Assembly, of the PACE, of the European Parliament's resolutions etc. Gross human rights violations, correlated with crimes against humanity in Crimea are now subject to consideration in International Court of Justice (case 166)⁴ and the European Court of Human Rights (case 20958/14 and others).⁵

Issues of violation by Russia the International Convention on the Law of the Sea (UNCLOS) is the subject of consideration in case "Dispute Concerning Coastal State Rights in the Black Sea, Sea of Azov, and Kerch Strait (Ukraine v. the Russian Federation)"⁶

Since 24th of February 2022 Russia committed broad and open military aggression to all Ukraine's territory from own territory, occupied Crimea, Belarus, Black and Azov seas against Ukrainian mainland. Due last three months of fights Russia occupied some territories of Donetsk, Kharkiv, Kherson, Luhansk, Zaporizhzhya and strong fights are going near cities of Kharkiv, Mykolaiv and others with total population more than 8 millions persons near the frontline.

Russian troops committed in Ukraine, during this operation, gross violation of international humanitarian law and international human rights' law already. We sent information to IMO and its member states regarding situation in waters of Black and Azov Seas in the zone of hostilities in March⁷ and April⁸, 2022 and the situation even worsened since that time.

We pointed in our submissions that Russia's aggressive acts are totally supported by their naval activities on the Black Sea and Sea of Azov. Russia, as aggressor State has illegally banned

¹ <https://arc.construction/>

² https://www.journal-officiel.gouv.fr/associations/detail-annonce/associations_b/20210005/1348

³ for example, <https://undocs.org/en/A/RES/73/263>

⁴ <https://www.icj-cij.org/public/files/case-related/166/166-20191108-JUD-01-00-EN.pdf>

⁵ <http://hudoc.echr.coe.int/eng/?i=001-207622>

⁶ <https://pca-cpa.org/en/cases/149/>

⁷ <https://www.parismou.org/system/files/135%20-%20On%20Maritime%20Safety%20and%20Russian%20Agression%20against%20Ukraine.pdf>

⁸ https://www.parismou.org/system/files/185%20-%20ARC_Submission_IMO_2022_Moskva.pdf

commercial shipping in the Black Sea areas adjacent to mainland Ukraine since February 26. Some merchant vessels flying flags of various nations were shot by the Russia's rocket missiles in the Black Sea. On February 27 Turkey's Government approved a decision to apply a wartime regime to the Black Sea straits, the Bosphorus and the Dardanelles.

More, Russian aggressor seized in Black Sea two peaceful merchant ships flying Ukrainian flags near the Zmiiny Island, namely – bulk carrier AFINA number IMO 8029272 and bulk carrier PRINCESS NIKOL number IMO 8319392. On the morning of February 27 those ships, carrying 50 people, about 25 each, were seized by the aggressor's navy, and are located 18 miles from the Crimea, south of Cape Tarkhankut.

The aggressor's navy threatens to destroy the vessel ships with missile weapons if they try to leave the place. Both vessels are loaded with grain which was carried from Mykolaiv city to Constanta, Romania. As aggressor's military authorities previously reported, an “anti-terrorist operation” was announced in the Black Sea Region, adjacent to mainland of Ukraine, which any merchant ship could be destroyed by the aggressor State.

Such Russia's illegal military activities were full supported by the systematic illegal actions of Russian Maritime Register of Shipping (RMRS) and Russian River Register (RRR) and of Russia's controlled equipment of the Black Sea Memorandum of Understanding on Port State Control (BSM). RRR and RMRS were used since 2014 by Russia's government for illegal control of Ukraine's maritime property in the Crimea and for the support of Russia's naval activities in the Crimea that caused Ukraine's relevant investigations and sanctions against RRR and RMRS. Also Russia abuses own possibilities in the NAVAREA system for such purposes.

So Russia, as aggressor State has illegally banned commercial shipping in the Black Sea areas adjacent to mainland Ukraine since February 26. Some merchant vessels flying flags of various nations were shot by the Russia's rocket missiles in the Black Sea, and others were captured in sea and in Ukrainian ports of Kherson and Mariupol. On February 27 Turkey's Government approved a decision to apply a wartime regime to the Black Sea straits, the Bosphorus and the Dardanelles.

On 8 March 2022 UN human rights experts called on Russia to immediately end its invasion of Ukraine to avoid further bloodshed; experts recalled that intentional attacks against civilian objects amount to war crimes. In other UN experts' statements the negative impact of Russia's aggression on persons with disabilities and older persons was condemned, and relevant risks for women's right to life were pointed. UN Special Rapporteur on the right to adequate housing expressed on 9th of March the grave concerns about the serious violations of the right to adequate housing in Ukraine after Russian forces invaded the country.

UN official stated that indiscriminate use of weapons such as cluster munitions, multiple launch rocket systems, tactical missile systems and artillery systems have been reported in multiple areas of Ukraine including in and around the cities of Kherson, Mariupol, Mykolaiv and several others. Many civilian infrastructure including fuel depots, water and power stations are under attack or threat of attack.

UN General Assembly in its resolution ES-11/1 on 2 March 2022 recognized that the military operations of Russia inside the sovereign territory of Ukraine are on a scale that the international community has not seen in Europe in decades and that urgent action is needed to save this generation from the scourge of war. In article 9 of this resolution UN General Assembly demanded that all parties to allow safe and unfettered passage to destinations outside of Ukraine and to facilitate the rapid, safe and unhindered access to humanitarian assistance for those in need in Ukraine, to protect civilians, including persons in vulnerable situations, and to respect human rights.

UN General Assembly in its resolution ES-11/2 on 24 March 2022, articles 5 and 8, demanded again full respect for and protection of objects indispensable to the survival of the civilian population and civilian infrastructure that is critical to the delivery of essential services in armed conflict; stressed that the sieges of cities in Ukraine further aggravate the humanitarian situation for the civilian population and hamper evacuation efforts, and therefore demands to put an end to these sieges. On 7 April 2022 the UN General Assembly adopted a resolution ES-11/3 calling for Russia to be suspended from the Human Rights Council.

Russian membership was de-facto stopped in Arctic Council and members of the Council of the Baltic Sea States suspended Russia from the Council's activities

There are no peacekeeping missions in Ukraine; as such initiatives were blocked by the Russian government. Activities of UN Monitoring Mission in Ukraine are extremely low now and OSCE Special Monitoring Mission in Ukraine de-facto stopped its activities since 7th of March; later Russia blocked the prolongation such Mission's activities.

Due to the gross and systematic violations by Russia the demands of international humanitarian and human rights law, also as maritime safety, guaranteed by the UNCLOS, SOLAS, MARPOL and STCW Conventions, during de facto naval blockade of Ukraine and naval warfare in Black and Azov Seas, the immediate reaction of the international organizations was required.

European Union adopted its Council Regulation (EU) 2022/394 of 9 March 2022 and later some other acts that amended Regulation (EU) No 833/2014 concerning restrictive measures in maritime area in view of Russia's actions destabilizing the situation in Ukraine.

International Maritime Organization (IMO) held an extraordinary session of its Council on March 10 and 11 to consider the impact of the situation in the Black and Azov Seas on merchant shipping and seafarers.

At this session, the IMO Council adopted resolution C/ES.35, which strongly condemned Russia's violation of Ukraine's territorial integrity and sovereignty, which extends to its territorial waters, contrary to the principles of the UN Charter and IMO principles, and poses a serious threat to life and safety of navigation and marine environment.

IMO resolution C/ES.35 requested the Chair of the Council and the Secretary-General to convey to all Member States and the public these decisions of the IMO Council, and to continue to closely monitor the situation in relation to threats to ships and seafarers operating in the Black Sea and Sea of Azov; and requested the Secretariat to keep Member States regularly informed of the status of seafarers in the Black Sea and the Sea of Azov and suggested follow-up by IMO bodies, as appropriate.

IMO's official statement entitled "Maritime Security and Safety in the Black and Azov Seas", which states that the ongoing armed conflict between Russia and Ukraine presents a serious and immediate threat to the safety and security of crews and vessels operating in the region. The IMO statement said that IMO Secretary-General Kitack Lim has established an Emergency Task Force to coordinate efforts to mitigate the security and safety risks to shipping, ports and seafarers.

IMO Secretary-General and Guy Ryder, Director-General, International Labour Organization, have jointly written to the heads of International Committee of the Red Cross and Médecins Sans Frontières; and to the United Nations High Commissioner for Refugees, to request urgent action wherever feasible to assist in the re provisioning of the ships concerned with the vital supplies needed by their seafarers.

The letters note that, as well as the dangers arising from bombardment, many of the ships concerned now lack food, fuel, fresh water, and other vital supplies. The situation of the seafarers from many countries is becoming increasingly untenable as a result, presenting grave risks to their health and well-being. The letters note that the port city of Mariupol is currently under particularly serious attack at this time. Thus, the IMO directly identifies the main threat to ships and seafarers exactly from Russian bombing and occupation⁹.

The statement added that the IMO Secretariat continues to work with littoral states to encourage and improve regional information sharing and promulgation of information to shipping to aid the safety of navigation and security of shipping. With regards to humanitarian support for maritime personnel, the IMO Secretariat has been facilitating discussions with Ukrainian ports administrations, charities and the International Labour Organization to support port workers and seafarers directly impacted by the crisis.

⁹ <https://arc.construction/31873>

IMO pointed out that Ukraine also provided their preconditions for the safe evacuation of ships from their ports. These include an end to hostilities, the withdrawal of troops and ensuring the freedom of navigation in the Black Sea and Sea of Azov¹⁰.

Russian authorities make statements that manipulate with the pointed IMO proposals. For example, Russia's "Joint Interdepartmental Coordination Headquarters for Humanitarian Response" declares the "corridors" allegedly opened for the exit from ports of Kherson, Mykolaiv, Ochakiv and others for the foreign cargo vessels¹¹. But de-facto port of Kherson is under full control of Russian forces since March 2022, and the ports of Mykolaiv and Ochakiv are physically blocked by Russia's mines and permanent missile and artillery shots in area of Kinburn Spit.

More, Russian forces increase after 10th of May own presence on Black Sea's Snake (Zmiinyi) Island and established mines around it; media reports that some Russia-captured Ukrainian naval artillery boats may be used under false flag attacking cargo vessels¹² in Zmiinyi area. On Azov Sea ports of Berdiansk and Mariupol are captures by Russian forces and Russia-controlled structures and there is impossible to guarantee minimal safety and security standards for trade shipping.

Those Russian actions are the ongoing naval blockade the Ukrainian ports that cause the global food crisis. At the same time, on May 25, the Russia's foreign ministry issued a statement saying that "Russia completely denies allegations that Ukrainian grain was exported by the Russian military"¹³. At the same time, the Russia's army in Moscow issued a statement claiming that the actions of Ukraine, not Russia, posed a threat of a global food crisis.

At the same time, on the same day, Deputy chairman of the Russia's state duma committee Viktor Vodolatsky stated that the occupiers were rebuilding a railway from Donbass to Crimea in order to "take out the harvest that has accumulated there - tens of thousands of tons"¹⁴.

Earlier, open sources repeatedly reported that the occupiers were exporting grain en masse from the occupied districts of Kherson and Zaporizhia regions to the Crimea and further loading it for export to seagoing vessels in Sevastopol. In addition, the occupiers themselves in March-May this year repeatedly emphasized the "importance of the Kherson region" in providing the occupied Crimea with agricultural products.

For example, on May 26, Russian propaganda circulated a statement by a Henichesk collaborator, the criminal head of the agrarian sector of the administration", that "logistics for the export of Kherson agricultural products continue to be restored" to Crimea and Russian regions.

According to the "Black Sea Strategic Research Institute", in April 2022, Russia exported by sea from the ports of the Azov and Black Seas at least 10.9 million tons of oil and oil products, including 8.5 million tons of crude oil. The cost of this oil is estimated by experts at approximately \$7.4 billion. At the same time, Russia is exporting grain stolen in Ukraine through the straits; for example, on May 22, the ship "Matros Poznych", IMO number 9573816, carrying grain from the occupied Sevastopol, passed the Bosphorus¹⁵.

Thus, the false statements of the Russian Foreign Ministry are intended for an audience that does not monitor the real situation in the occupied territories of Ukraine.

Trade vessels that are used by Russia to carry grain from Crimea's ports are out of standards of maritime safety and security and such activity is illegal.

Due to the gross and systematic violations by Russia the demands of international humanitarian and human rights law, also as maritime safety, guaranteed by the UNCLOS, SOLAS, MARPOL and STCW Conventions, during de facto naval blockade of Ukraine and naval warfare in Black and Azov Seas the immediate reaction of the International Maritime Organization (IMO) and International Labour Organization (ILO), their member states required.

¹⁰ <https://www.imo.org/en/MediaCentre/HotTopics/Pages/MaritimeSecurityandSafetyintheBlackSeaandSeaofAzov.aspx>

¹¹ https://eng.mil.ru/en/news_page/country/more.htm?id=12423044@egNews

¹² https://lb.ua/society/2022/05/26/517986_rosiya_mozhe_vikoristati_ukrainskiy.html

¹³ <https://www.km.ru/v-rossii/2022/05/25/ministerstvo-inostrannykh-del-rf/897784-mid-oproverg-utverzheniya-o-vyvoze-ukra>

¹⁴ <https://tass.ru/ekonomika/14720495>

¹⁵ <https://arc.construction/31672>

Russia's membership in IMO and ILO must be suspended, Russia's presence in the IMO's A category must be stopped.

All Russia's activities in any IMO and ILO body, program or project IMO and ILO must be stopped. Special IMO and ILO decisions regarding the above-pointed Russia's activities must be adopted, with condemnation and non-recognition of illegal Russia's maritime blockade of Ukraine and illegal transfer of Ukrainian products by Russia to third countries by maritime transport; IMO member states has competence to make relevant own statements immediately.

As we pointed in March and April, IMO must recommend to all member stated to suspend and/or stop recognition the competence of RMRS and RRR; IMO member states has competence to suspend such recognition now immediately.

IMO should recommend to all regional Memorandums of Understanding on Port State Control to **include vessels flying Russian flag to own PSC's black lists**; IMO member states has competence to initiate this process on regional level immediately.

ILO must pay special attention to violation the rights of Ukrainian seafarers on Russia-occupied territories of Ukraine, including Kherson, Berdyansk and Mariupol.

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