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OF CRIMEA

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To UN High Commissioner for Human Rights

Technologies Companies, Sustainable Development and Water Crisis in the Crimea

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Our Association of Reintegration of Crimea (ARC)¹, as non-governmental expert and human rights organisation², with activities devoted to Crimea's issues, submits this application to the High Commissioner for Human Rights for her report on the on the practical application of the UN Guiding Principles on Business and Human Rights³ to the activities of technology companies⁴. Our responses are devoted to the situation with activities of foreign technologies companies in the context of the water crisis in the Crimea; it deals with the issues identified by the Association in its work, namely regarding the Crimean residents' right to the sustainable development and healthy environment.

Illegal occupation and attempted annexation of Crimea by Russia since 2014 have been condemned in a set of international acts, including UN GA resolutions 2014 68/262, 2016 71/205, 2017 72/190, 2018 73/263 2019 74/168, 2020 75/192, 2021 76/70, 2018 73/194, 2019 74/17, 2020 75/29, 2021 76/179⁵, resolutions of the OSCE Parliamentary Assembly, of the Parliamentary Assembly of the Council of Europe. Attempted annexation the Crimea by Russia was never recognized by the international community. Human rights violations in the Crimea now are the subject to consideration in international courts, including the International Court of Justice (case 166)⁶ and the European Court of Human Rights (case 20958/14 etc).⁷

Association gives such example of violation the UN Guiding Principles on Business and Human Rights during the activities of technology companies in the Russia-occupied Crimea, namely "Siemens" and "Grundfos" corporations.

In the Crimean peninsula, illegally controlled by Russia, negligence and illegal actions of the so called "authorities" caused the ongoing water crisis that is a key challenge for the indigenous Crimean Tatar people and other population of the region's rural areas. UN GA resolution 76/179 pointed that Russia as occupying State bears all responsibility for ongoing water crisis in Crimea⁸ and European Court on Human Rights refused in 2021 to oblige Ukraine supply water to Crimea by the North Crimean Channel⁹. Experts of ARC with a close cooperation with the Crimean Tatar Resource Centre, ARC held consultations with Crimean Tatar representatives, members of Mejlis of Crimean

¹ <https://arc.construction/>

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

³ https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁴ <https://www.ohchr.org/Documents/Issues/Business/B-Tech/introduction-ungp-age-technology.pdf>

⁵ for example, <https://undocs.org/en/A/RES/76/179>

⁶ <https://www.icj-cij.org/public/files/case-related/166/166-20191108-JUD-01-00-EN.pdf>

⁷ <http://hudoc.echr.coe.int/eng?i=001-207622>

⁸ <https://undocs.org/en/A/76/PV.53>

⁹ <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7085775-9583164&filename=Inter-State%20case%20brought%20by%20Russia%20against%20Ukraine.pdf>

Tatar People, it took part in conferences devoted to Crimean issues, including water crisis challenges¹⁰, and in “Crimean Platform” high-level summit in Kyiv in 2021¹¹.

In such conditions the commodification of industrial water exploitation in the Crimea caused the illegal participation of the transnational high-technology corporations also. As we researched from the open sources, including the “official” web-cite of Russian de-facto regional authorities in Crimea, co-called “Council of Ministers of Republic of Crimea”¹²¹³, also as from the Russian media, including state-owned ones, on 18th March, 2021 the pump station was opened in Bilohirsky District of the Crimea for the so-called Beshterek-Zuya water intake and water supply to Simferopol city. As it may be clearly established, the “Siemens” and “Grundfos” pumps and other engines were used as basic equipment of this station.

Installation of this Beshterek-Zuya water intake’s pump station with declared capacity of 20 thousands cubic meters per day was done by Russia’s de-facto authorities in the Crimea regarding to the Russian Government’s prescripts, 2020 № 2668-p¹⁴ and 2021 № 596-p¹⁵. The purpose of this pump station is to provide the additional water supply to Russian military bases in the Crimea, which function illegally in Simferopol District and for more than 100 thousands of Russian citizens, resettled by the Russian Government illegally to Simferopol. So this pump station is a direct tool of the international crimes, committed by the Russian de-facto authorities in Crimea that are now the subject of consideration by the International Criminal Court.

More, this pump station is the tool of ecocide the unique Crimean Zuya River valley’s hydrologic ecosystem as this station’s functioning will cause the further dehydration of these areas, will destroy its unique landscapes. More, dehydration the Zuya valley will cause the social disaster for this valley’s residents including the indigenous Crimean Tatar People. And more, the supply of engineering equipment to the Crimea is banned by the European Union’s sanctions, which are in force. So the deliveries, maintenance and insurance of the relevant “Grundfos” and “Siemens” equipment to the Beshterek-Zuya water intake’s pump station was the brutal violation of the European Union’s sanctions policy. Our Association, and Ukrainian journalists asked officially on April 2021 the Dutch concern “Grundfos” and German concern “Siemens” to inform us urgently what company of those holding’s network is directly responsible for the deliveries, maintenance and insurance of the relevant “Grundfos” and “Siemens” high-level technology equipment to the Beshterek-Zuya water intake’s station¹⁶.

Under these circumstances, “ARC” sent an official letter to “Siemens” headquarters in Munich, to the Austrian company “Siemens”, to its subsidiary in Kyiv and to the “Siemens” branch in Moscow. More, those pumps, as it flows from the photo and video of the pumping station, broadcasted by Russia’s propaganda, are the common production of German and Austrian “Siemens” and of Danish concern “Grundfos”. As it was announced in September, 2019 “Siemens” and “Grundfos” signed a digital partnership framework for strategic cooperation between the two companies. Such partnership “focused on the complementary products and solutions provided by both parties in three main areas: water and wastewater applications, industrial automation and building technology”. “Grundfos” and “Siemens” agreed to “set new standards” by “digital, cloud-based solution” “to monitor motors, pumps, and systems, and use plant data for process optimization”.

¹⁰ <https://arc.construction/15457> <https://arc.construction/6615>

¹¹ <https://arc.construction/18743>

¹² <https://rk.gov.ru/photo-report/show/457>

¹³ <https://www.facebook.com/SovetMinistrov/photos/a.301565699991963/1868345769980607/>

¹⁴ <http://publication.pravo.gov.ru/Document/View/0001202010200016>

¹⁵ <http://publication.pravo.gov.ru/Document/View/0001202103160004>

¹⁶ <https://arc.construction/13148>



So our Association sent on April 2021, official letters, to the “Grundfos” headquarters in Bjerringbro, Denmark, and to its subsidiaries in Kyiv and Moscow requesting this company to present the public explanations on its own activities in the Crimea. For this moment both European companies did not answer to our Association on the abovementioned issues, despite the huge public discussion on this topic, started by “ARC” and reflected by the key Ukrainian independent media. Also we sent letters to the national ministries of foreign affairs of Denmark and Germany on April, 2021 on the above-pointed situation¹⁷.

Later, in July 2021 our Association also informed the key German and Danish ecologic organizations on those negative issues. We already got the confirmations from some of those NGO structures that they will start work on this problem and we will cooperate with them on point on further legal responsibility of “Siemens” and “Grundfos” for the committed violations the international humanitarian and human rights law¹⁸. After the relevant civil activists’ and journalists’ investigations started, our Association got official submission from the Danish Business Authority (state structure of Danish Ministry of Industry, Business and Financial Affairs) dated 6 July, 2021 that informed us that DBA as the relevant Danish national competent authority passed the investigation on possible breach of Council Regulation (EU) 692/2014 concerning restrictive measures in response to the illegal attempted annexation of Crimea and Sevastopol¹⁹.

The DBA made “Grundfos” aware of Regulation, specifically article 2b (1), whereby it is prohibited to sell, supply, transfer or export goods and technology as listed in Annex II to any natural or legal person entity or body in Crimea or Sevastopol, or for use in Crimea or Sevastopol. DBA pointed the fact that pumps produced by “Grundfos” were present in Crimea therefore objectively constituted a breach of the Regulation, and the DBA therefore urged “Grundfos” to supply the DBA with all relevant information regarding these allegations. The DBA also made “Grundfos” aware that this information could be used in a potential criminal case against them, and asked “Grundfos” to sign a statement of consent, whereby “Grundfos” accepted to supply the relevant information to the DBA regardless of the right to withhold this information, of the principle of self-incrimination.

On the 20th of April 2021, “Grundfos” responded to the DBA letter (but not to our Association’s request) and informed the DBA that the water pumps are covered by CN-code 8413 as listed in Annex II to Regulation (EU) 692/2014. “Grundfos” also informed the DBA that they were able to track the specific order of pumps and that “Grundfos” had allegedly “no knowledge of the fact that the pumps were to be used in Crimea”. “Grundfos” explained that the water pumps are allegedly “standard products”, and that the pumps were originally sold to a Russian water utility company which did not generate any hits in their sanctions screening procedures. This Russian company had allegedly informed “Grundfos” that the pumps were to be used in the Russian region Krasnodar and that “Grundfos” own investigation into this matter has shown that the pumps were allegedly “later resold numerous times”.

To ascertain whether Annex II in the Regulation (EU) 692/2014 encompasses the water pumps in question, The DBA consulted the Danish Defence Acquisition and Logistics Organization (DALO) who carried out a technical review of the specific water pumps. DALO concluded that the water pumps are encompassed in Annex II to The Regulation, as the water pumps are “pumps for liquid” falling within CN-code 8413. DALO further concluded that the export of such water pumps are not subject to a license under Council Regulation (EU) 428/2009 (dual-use) and that the pumps are not subject to a prior authorisation as per article 3 of Council Regulation (EU) 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine.

¹⁷ <https://arc.construction/24465>

¹⁸ <https://arc.construction/17455>

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0692-20141220>



As the water pumps could be exported to Russia (but not to the Crimea), and based on the information that “Grundfos” has supplied, the DBA concluded that “Grundfos” actions cannot give rise to any liability as they allegedly “did not know and had no reasonable cause to suspect” that their actions would infringe the measures set out in the Regulation, regarding its article 5. Based on the abovementioned, the DBA on the 17th of June 2021 informed “Grundfos” that the DBA would not be pursuing this matter further. The Danish Ministry of Foreign Affairs will inform the Embassy of Ukraine and the European Commission about the DBA’s investigation of this case upon our Association’s application and about its conclusions.

Our Association does not agree with such DBA position as DBA clearly established in this investigation 2021-11885 that “Grundfos” water pumps’ supply to the Crimea violated brutally the EU Law, including the demands of the Regulation (EU) 692/2014. Position of “Grundfos” concern as they allegedly “did not know” about the real purpose of its equipment seems to be the clear manipulation, as those water pumps are not “standard products” for the concern and more, “Grundfos” recognized to DBA that the concern may “track the specific order of pumps”, but recognized it after the problem become a public one.

So our Association gave own position to the European Commission on this case, as for needs to enforce and develop the Regulation (EU) 692/2014 mechanisms, including the issues of the goods’ tracking and export contract policies for the EU companies’. Also the collaboration of “Grundfos” with Russian invaders, committing the international crimes in the Crimea will be described by our Association to the International Criminal Court. The issues of “Grundfos” concern’s criminal cahoots with Russian “authorities” must be researched on the international level, as the DBA’ controversial role on those issues also.

So Association fully highlighted the brutal violation of the international ecologic and environmental law by “Siemens” and “Grundfos” companies that supplied in 2020-2021 industrial water pumps to the Crimean “administration”; such pumps’ exploitation in military purposes destroyed the unique ecosystem of Zuya River valley, traditional for the Crimean Tatars. We informed German and Danish officials, European Commission and ecologic organisation, relevant investigation was held by the Dutch Business Authority due to our complaint²⁰.

No practical result was achieved that could protect the rights of Crimean Zuya valley residents to sustainable development and to healthy environment; no any compensation was paid or proposed.

So illegal activities the of Russia-controlled de-facto “authorities” in the Crimea are far from all the UN Guiding Principles on Business and Human Rights. And more, above-described policy of the competent state authorities of Germany and Denmark are not in full compliance with demands of those UN Guiding Principles, including principles 1, 2, 3c and 3d, 4, 5, 6 and others.

It would be beneficial if UN High Commissioner’s research could pay more attention to the situation with the business and human rights issues in zones on conflict and foreign occupation like modern Crimea. The reports of the UN Human Rights Monitoring Mission in Ukraine may be suitable for this issue also; we may recommend to this UN Mission monitor more actively the issues of human rights’ violations done by the Russia’s de-facto “authorities” in the Crimea, especially regarding gender and racial dimension, rights of children, indigenous rights, rights to life, health and privacy, right to environment and right to sustainable development.

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²⁰ <https://arc.construction/17751>

